

Michigan Register

Issue No. 6 – 2002 (Published April 15, 2002)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws



Issue No. 6 — 2002

(This issue, published April 15, 2002, contains
documents filed from March 15, 2002 to April 1, 2002)

Compiled and Published by the
Office of Regulatory Reform

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Michigan Register (ISSN 0892-3124). Published twice per month, with a cumulative index, by the Office of Regulatory Reform, pursuant to §24.208 of the Michigan Compiled Laws. Subscription \$110 per year, postpaid to points in the U.S. First class postage paid at Lansing, Michigan. Direct all mail concerning subscriptions to Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933. Telephone: 517-373-0526.

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John Engler, Governor



Dick Posthumus, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.

- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
- (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
- (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
- (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

(2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.

(3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.

(4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed cost of preparation, printing, and distribution.

(5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.

(6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.

(7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).

(8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).

(9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Office of Regulatory Reform for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reform is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$110.00 per year. Submit subscription requests to: DMB, Office of Administrative Services, P.O. Box 30026, 320 South Walnut Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 373-0526.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: www.state.mi.us/orr

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Brian D. Devlin, Director
Office of Regulatory Reform

2002 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
2002		
1	January 15, 2002	February 1, 2002
2	February 1, 2002	February 15, 2002
3	February 15, 2002	March 1, 2002
4	March 1, 2002	March 15, 2002
5	March 15, 2002	April 1, 2002
6	April 1, 2002	April 15, 2002
7	April 15, 2002	May 1, 2002
9	May 1, 2002	May 15, 2002
9	May 15, 2002	June 1, 2002
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21	November 15, 2002	December 1, 2002
22	December 1, 2002	December 15, 2002
23	December 15, 2002	January 1, 2002
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ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

ORR # 2000-039

DEPARTMENT OF AGRICULTURE

FAIRS, EXHIBITIONS AND RACING DIVISION

REGULATION NO. 852. UPPER PENINSULA STATE FAIR

Filed with the Secretary of State on March 27, 2002.

These rules take effect 7 days after filing with the Secretary of State.

(By authority conferred on the commission of agriculture by sections 1 and 4 of 1927 PA 89, and sections 7, 9, 276, and 286 of 1965 PA 380, MCL 285.141, 285.144, 16.107, 16.109, 16.276, and 16.286)

R 285.1101, R 285.1102, R 285.1103, R 285.1104, R 285.1201, R 285.1202, R 285.1203, R 285.1301, R 285.1302, R 285.1303, R 285.1304, R 285.1306 to R 285.1332, R 285.1401, R 285.1403, R 285.1405, R 285.1406, R 285.1408, R 285.1501 to R 285.1510, R 285.1511 to R 285.1515, R 285.1517, R 285.1602 to R 285.1607, R 285.1701 to R 285.1705, R 285.1801, and R 285.1901 to R 285.1907 of the Michigan Administrative Code are amended, R 285.1510a is added to the Code, and R 285.1402, R 285.1404, R 285.1407, R 285.1516, R 285.1601, R 285.1608, and R 285.1609 of the Code are rescinded as follows:

PART 1. GENERAL PROVISIONS

R 285.1101 Definitions.

Rule 101. As used in these rules:

- (a) "Agricultural exhibitor" means a person who enters an exhibit in the agricultural and livestock departments of the fair.
- (b) "Board" means the upper peninsula state fair board of managers.
- (c) "Commission" means the commission of agriculture.
- (d) "Community arts or youth exhibitor" means a person who enters an exhibit in the community arts or youth departments of the fair.
- (e) "Concessionaire or exhibitor permit" means a license agreement to operate a stand or exhibit, the main purpose of which is to exhibit commercial products, to solicit prospective buyers, or to make direct sales at the fair.
- (f) "Concession stand" means a stand that sells and immediately delivers food, beverages, specialty items, balloons, artwork, novelties, or other like items to fair patrons.
- (g) "Department" means the department of agriculture.
- (h) "Director" means the director of agriculture.
- (i) "Educational exhibitor" means an educational, charitable, or nonprofit corporation exhibitor granted a permit by the fair.
- (j) "Exhibit" means an article, item, livestock, or poultry entered for public display at the fair.
- (k) "Exhibitor" means a holder of an exhibit permit, his or her agent, or a designated representative.

- (l) "Fair" means the upper peninsula state fair staged in Escanaba, Michigan.
 - (m) "Food concession" means a place or stand that sells or serves food or beverages.
 - (n) "Games of skill" means a single location at the fair that contains 1 or more units of play of a game of skill.
 - (o) "Manager" means the duly appointed state civil service manager of the fair.
 - (p) "Non-fair permit" means a permit, other than a lease, for use of any part of the buildings or fairgrounds when the fair is not in operation.
 - (q) "Premium book" means the publication which relates to the administration of the annual fair event, and which is prepared by the manager.
 - (r) "Livestock" means those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to any of the following:
 - (I). Cattle.
 - (II). Sheep.
 - (III). New world camelids.
 - (IV). Goats.
 - (V). Bison.
 - (VI). Captive cervidae.
 - (VII). Ratites.
 - (VIII). Swine.
 - (IX). Equine.
 - (X). Poultry.
 - (XI). Aquaculture.
 - (XII). Rabbits.
- "Livestock" does not include dogs and cats.
- (s) "Sabotage" means the interference with any livestock belonging to or owned by another person which has been registered with, entered in, or exhibited at, the upper peninsula state fair, or which was raised with the intent of being entered in an exhibition.
 - (t) "Tampering" means the treatment of livestock in a manner that results in food derived from the livestock being considered adulterated or the treatment of livestock consistent with any practices described in r 285.1604.

R 285.1102 Scope; business transactions; premium book rules; rates and fees; concession rights.

Rule 102. (1) R 285.1101 applies to the operation of the fairgrounds during the fair and at other times.

(2) Business transactions of the fair shall be conducted according to established practices and procedures of the state of Michigan.

(3) All rules as printed in the annual premium book shall be binding upon all persons or events where applicable. The manager, as delegated by the director, reserves the right to interpret all of the rules in the premium book.

(4) The manager and the fair board shall recommend admission charges, license rental rates and fees, and the director or his or her designee shall approve or adjust the recommended rates.

R 285.1103 Interpretation of rules.

Rule 103. (1) The director, after consultation with the Upper Peninsula state fair board, reserves the right to interpret these rules and to settle and determine questions and disputes in regard thereto or otherwise arising out of, connected with, or incident to, the operation of business.

(2) The provisions printed in the premium book, the concessionaire permit, exhibitor permit; and non-fair permit shall be followed in the operation and conduct of business during and after the fair or event.

R 285.1104 Inspection of premises.

Rule 104. The fair management and authorized agents for governmental agencies, at any time, may enter upon and inspect any portion of the licensed premises to enforce provisions of a permit, applicable statutes, ordinances, and rules. In signing the concessionaire agreement, vendors consent to allow fair management and authorized agents for governmental agencies, at any time, to enter upon and inspect any portion of the premises to enforce compliance with applicable statutes, ordinances and rules.

R 285.1105 Procurement of services.

Rule 105. The manager shall follow the state administrative manual and department policies and procedures relative to the procurement of services.

R 285.1106 Program substitutions.

Rule 106. The upper peninsula state fair management reserves the right to make substitutions at any time in programs and entertainment without refunding admission fees.

PART 2. FAIR OPERATIONS

R 285.1201 Registration of businesses with state; hiring of minors.

Rule 201. (1) A minor shall obtain a Michigan department of consumer and industry services approval number and a working permit from the minor's local school attendance department. Failure to meet the requirements in this subrule is grounds for a cancellation of a permit or a lease.

R 285.1202 Advertising; violation.

Rule 202. (1) A permit holder, patron, or other person shall not place any advertising matter on a building, tree, or any other place on the grounds or distribute advertising matter or literature outside the place assigned by the terms of the permit.

(2) A person who is found to have violated this rule by the manager is subject to expulsion from the fairgrounds and forfeiture of his or her contract and fees without recourse.

R 285.1203 Intoxicating beverages.

Rule 203. Alcoholic beverages shall be permitted on the fairgrounds. The fair may grant a permit to sell alcohol during events if the concessionaire has the appropriate licenses and if approved by the board and the department director.

R 285.1204 Dogs.

Rule 204. Owners shall register their dogs with the manager and comply with all terms of the registration form. If an owner fails to register a dog, the owner shall be ordered to remove the dog from the fairgrounds. A dog shall be under leash by owner or representative at all times on the fairgrounds.

PART 3. CONCESSIONAIRE, EXHIBITOR, AND NON-FAIR PERMITS

R 285.1301 Concessionaire, exhibitor, and non-fair permits; application and issuance procedure; space rental; revocation.

Rule 301. (1) The procedure described in this rule governs the issuance of concessionaire, exhibitor, and non-fair permits.

(2) A person or organization seeking concession or exhibit space to distribute, exhibit, or sell any materials or items on the fairgrounds shall complete an application for a permit. The applicant shall completely and correctly fill out and sign the application.

(3) Concessionaires and exhibitors that have established satisfactory performance records at the fair, as determined by the manager, may be granted permits upon request before permits are issued to new concessionaires and exhibitors. The manager shall determine the eligibility and desirability based on vendor mix and family entertainment value of all permit requests, subject to review by the director.

(4) The manager shall notify both fair and non-fair concessionaire and exhibitor permit applicants in writing of approval or disapproval. If the permit requires the signatures of corporate officers, other than the individuals supervising the exhibit, then the transaction may be carried out by mail. At the time of signing of the permit, the exhibitor shall agree on the location of the exhibit space and shall pay rental fees as approved by the director that are stated on the application for permit or are published by the department.

(5) A concessionaire, exhibitor, and non-fair permit holder shall abide by the rules and procedures of the department. A permit may be revoked by the department, and no claim for damages shall accrue to a permit holder, if a permit holder defaults in the performance of any provision, term, or condition of the permit or rules of the department.

R 285.1302 Rejection or conditional acceptance of application.

Rule 302. The manager may reject or conditionally accept an application for a permit based on vendor mix and in the best interest of the fair.

R 285.1303 Space allocation.

Rule 303. The allocation, number, and location of concessionaire, exhibitor, and non-fair permit holder spaces shall be determined by the manager based on vendor mix and in the best interest of the fair.

R 285.1304 Cancellation of space allotment and license.

Rule 304. (1) A space allotment and permit may be canceled by the manager if a concessionaire or exhibitor fails to occupy the space allotted with the concession or exhibit specified on his permit before the opening of the fair or for violation of the permit, state law, city ordinance, or these rules.

(2) A concessionaire or exhibitor may cancel the space allotted for the fair by advising the manager in writing on or before July 1.

(3) The manager may refund 80% of the payment received if a permit is properly canceled before July 1 of the year the permit is issued.

(4) The manager may refund up to 80% of the payment received from a non-fair permit holder if a permit is properly canceled by the manager not less than 30 days before the start of the event. The manager may deduct the costs of any expenses incurred by the fair.

R 285.1305 Relocation of concession or exhibit.

Rule 305. The manager reserves the right to require a concessionaire or exhibitor to locate at, or move his concession or exhibit to, some other site if the manager determines a public safety need or it is the best interest of the fair. If the manager cannot find a suitable alternate site, the concessionaire or exhibitor is entitled to a pro rata refund of space rent paid.

R 285.1306 Access to fairgrounds before opening day.

Rule 306. A concessionaire or exhibitor shall be granted access to the fairgrounds and exhibit buildings as defined by permit before the opening day of the fair for the purpose of preparing his or her exhibits or concessions.

R 285.1307 Construction of exhibits; structural changes.

Rule 307. (1) An exhibit in a building shall be constructed so it does not obstruct the public's view of an adjacent exhibit.

(2) A concessionaire's or exhibitor's displays and advertising that form the back wall of his or her concession or exhibit shall not be more than 8 feet in height, unless he or she has obtained written permission from the fair management.

(3) A concessionaire, exhibitor, or non-fair permit holder shall not mark, paint, drill, dig, or in any manner deface the premises, except by written permission of the manager, and at the expiration of the permit, shall surrender the premises in as good a condition as when first occupied.

(4) A permit holder shall discuss with, and secure written approval of, the fair management before electrical wiring, decorations, partitions, or other structural changes are made in the rented buildings or on the grounds.

R 285.1308 Signs and advertising; concession permits.

Rule 308. (1) A concessionaire or exhibitor shall not place a sign or advertisement, which hangs over an aisle, in a building.

(2) A concessionaire, exhibitor, or non-fair permit holder shall post on his or her premises only the signs that provides information about the product or services outlined under the application and/or permit.

(3) A concession permit issued by the manager shall be posted in a conspicuous location on the concession stand before the concessionaire may start to operate.

R 285.1309 Set up and electrical hookup authorizations.

Rule 309. An authorization for set up and electrical hookups shall be granted only after a concessionaire, exhibitor, or non-fair permit holder applies in person at the manager's office, and presents a copy of his or her permit or receipts which denote compliance with payment requirements.

R 285.1310 Electrical power; electricians; inspection of electrical connections; approval tag; payment for electrical services.

Rule 310. The fair shall furnish electrical power only to the point of outlet. Special and additional connections for the operation of spotlights, lamps, motors, signs, and other equipment shall be furnished by the exhibitor or concessionaire. The fair shall furnish the application for requested requirements. The fair shall designate a competent electrician to be in attendance upon the grounds before, during, and after the fair. The exhibitor or concessionaire may make arrangements for necessary expert service. The licensed contractor and the exhibitor or concessionaire shall make the arrangement for payment for services before the fair.

R 285.1311 Concession, exhibit, and building hours.

Rule 311. A concession or exhibit shall be open to the public during the hours of operation of the event of the fair. Exhibit buildings shall be open to exhibitors 2 hours before scheduled opening time, and exhibitors shall vacate the buildings within 1 hour after closing.

R 285.1312 Supervision of buildings; police and fire protection.

Rule 312. (1) Superintendents, guards or watchmen shall provide supervision for exhibit buildings in use 2 days before the fair, during the fair, and until 5 p.m. the day after the fair.

(2) The fair management shall provide concessionaires, exhibitors, and non-fair permit holders with normal police and fire protection during the fair and other events.

R 285.1313 Permit holder property; protection; liability for loss or damage.

Rule 313. The fair management shall use diligence to protect concessionaire, exhibitor, and non-fair permit holder property after its arrival on the fairgrounds. However, the state, its officers, agents, and employees are not liable for loss, injury, or damage to a concessionaire, exhibitor, or permit holder caused by fire, accident, condition of structure, or negligence of another concessionaire, exhibitor, or non-fair permit holder, or for any other reason.

R 285.1314 Assumption of risk by permit holder; portable materials; shipments.

Rule 314. (1) A concessionaire, exhibitor, or non-fair permit holder shall assume all risks ensuing from merchandising and exhibiting while at the fairgrounds.

(2) A concessionaire, exhibitor, or non-fair permit holder shall give special attention to the protection of portable materials during the set up period and during the tear down period following an event at the fairgrounds.

(3) A shipment of materials unaccompanied by its owner shall be consigned entirely at the owner's risk. A shipment shall be accepted upon delivery at the fairgrounds if properly marked, and if cartage and other charges are prepaid.

R 285.1315 Insurance; property damage, public liability, and workmen's compensation.

Rule 315. A concessionaire, exhibitor, or non-fair permit holder is responsible for providing his or her own insurance protection against property damage, public liability, and workmen's compensation as required by Michigan statutes in accordance with the permit issued by the fair.

R 285.1316 Certificates of insurance.

Rule 316. The manager shall not admit the property of an exhibitor or concessionaire, who, under R 291.344 is required to carry insurance, on the upper peninsula fairgrounds unless the exhibitor or concessionaire has presented to the fair a certificate of public liability and property damage insurance properly signed and dated by the insurance carrier. In addition, an exhibitor, concessionaire, or non-fair permit holder shall provide the fair with a certificate of workers' compensation insurance that meets the requirements of the Michigan workers' compensation act. If the exhibitor or concessionaire is a self-insurer under the Michigan workers' compensation act, then authorization for self-insurance is required.

R 285.1317 Applicable laws and ordinances; copies; fire regulations.

Rule 317. A concessionaire, exhibitor, or non-fair permit holder shall obey and conform to all laws of this state, and health, fire, and pertinent ordinances of the city of Escanaba and this state that pertain to concessions, exhibits, and events. A permit holder shall agree to immediately obey any order or regulation of the fire marshal or the manager regarding fire protection and fire hazards.

R 285.1318 Admission tickets.

Rule 318. A concessionaire, exhibitor, or non-fair permit holder is not entitled to free admission tickets. The exhibitor or concessionaire may obtain reduced rate admission tickets at a rate approved by the board. A refund shall not be made for unused tickets.

R 285.1319 Parking area; permits.

Rule 319. Concessionaires, exhibitors, and non-fair permit holders shall park in an area designated by the manager. Parking permits may be obtained by permit holders at the prevailing rate established by the board.

R 285.1320 Parking stickers; display; service vehicles.

Rule 320. (1) On the opening day of the fair or event, and at all times thereafter, concessionaire, exhibitor, and non-fair permit holder vehicles shall display a parking sticker issued by the manager, shall enter and exit the fairgrounds through a gate designated by the manager, and are subject to inspection by persons designated by the manager.

(2) During the fair or event, all vehicles servicing concessions and exhibits shall enter the fairgrounds through the designated gate. The vehicles may be used to service and supply concessions and exhibits until 1 hour before the opening of the fair or event, at which time the vehicles shall leave the fairgrounds proper and return to the concessionaire, exhibitor, or non-fair permit holder parking lots or leave the grounds. Failure to comply with this rule shall result in the vehicle being towed away at the owner's expense, and is cause for cancellation of the permit.

R 285.1321 Mailing lists.

Rule 321. A concessionaire, exhibitor, or non-fair permit holder who desires to acquire mailing lists during the period of the fair or event shall submit a written description of the purpose for the list and the method he or she proposes to use in acquiring the list. A permit holder shall not attempt to acquire a mailing list of patrons by any method or scheme unless he or she has received written permission from the manager.

R 285.1322 Advertising or selling products restricted.

Rule 322. (1) A concessionaire or exhibitor shall not advertise or sell a product from the space allotted to him or her for a company not specified on his or her permit.

(2) A concessionaire, exhibitor, or non-fair permit holder shall distribute handbills or other advertising matter only from the permitted premises.

(3) A concessionaire's or exhibitor's solicitors shall not operate outside their permitted premises.

(4) Retail selling, with or without "over the counter" delivery of an item, is not allowed, unless applied for and approved by the manager.

R 285.1323 Giveaways.

Rule 323. (1) A concessionaire, exhibitor, or non-fair permit holder shall obtain from the manager written permission to distribute giveaways.

(2) An exhibitor, concessionaire or non-fair permit holder shall not distribute advertising giveaways that may conflict with any type of concession for which a permit has been granted.

R 285.1324 Price adjustment.

Rule 324. The manager may make adjustments in retail and wholesale prices. If, the manager determines a retail or wholesale concessionaire fails to justify as reasonable based on current market prices outside the fairgrounds the prices the retailer, concessionaire, or wholesaler is charging for merchandise, then the manager may adjust the prices.

R 285.1325 Attention attraction devices; undue noise and objectionable operating methods.

Rule 325. (1) Excessive noise from the operation of a concession or exhibit, or noisy or objectionable methods employed in sales or demonstration activities are prohibited. A concessionaire, exhibitor, or non-fair permit holder shall have an equal opportunity to conduct his or her own demonstrations without interference from his or her neighbors. The manager shall determine what constitutes excessive noise or objectionable methods as interfering with the public safety or other activities of the fair or event.

R 285.1326 Cleaning.

Rule 326. A concessionaire or exhibitor shall sweep refuse from his or her premises into the building aisles, or onto the streets, from 11 p.m. to midnight each night. Fair clean-up personnel shall sweep refuse from commercial exhibit buildings and areas adjacent to concession stands each night after the buildings and streets are empty. Fair clean-up personnel shall not enter the concessionaires' or exhibitors' booths within buildings or concession stands.

R 285.1327 Unclean and destroyed premises.

Rule 327. If the premises occupied by a concessionaire, exhibitor, or non-fair permit holder are destroyed in any degree, or left in an unclean condition as a result of the use of the premises by the concessionaire, exhibitor, or non-fair permit holder, then the manager shall repair or clean the premises and charge the concessionaire, exhibitor, or non-fair permit holder. Failure or refusal to pay the charge by a concessionaire, exhibitor, or non-fair permit holder precludes that party from eligibility to exhibit until the charge is paid.

R 285.1328 Removal of exhibits; releases.

Rule 328. (1) As a protection to exhibitors and concessionaires, fair releases are required for all material taken from the fairgrounds by exhibitors and concessionaires at the end of the fair. The fair shall distribute releases at the designated fair closing time.

(2) A truck, car, or any type of vehicle shall not enter the fairground to pick up exhibits and stands until the time that is determined by the fairgrounds.

R 285.1329 Prohibited activities; protests.

Rule 329. The permit holder shall sell, handle, serve, display, or exhibit only the articles that are specified on the permit, and only from and upon the space assigned, except that the manager may prohibit the display, sale, or giving away of an item that the manager determines endangers the public health, safety, or morals. The permit holder agrees to comply immediately with the ban. A permit holder may, within 24 hours, file a written request for a review of the manager's decision with the director. The display, sale, or giving away of an item is prohibited unless the director reverses the decision of the manager.

R 285.1330 Fraud and misrepresentation.

Rule 330. The department shall prohibit any form of fraud practiced on patrons of the fairgrounds. Willful and intentional misrepresentations or false advertising shall result in expulsion of the concessionaire, exhibitor, or non-fair permit holder from the fairgrounds, and forfeiture of his or her contract and fees without recourse.

R 285.1331 Fair officers' and employees' interest in a permit concession, or exhibit.

Rule 331. An officer or employee of the fair shall not have a concessionaire or exhibitor permit, or any interest in, or connection with, a concession or exhibit operated on the fairgrounds. If such an interest or ownership is discovered, then the permit is canceled and all money paid for the permit shall be forfeited without recourse.

R 285.1332 Labor unions.

Rule 332. The manager may cancel a permit of a concessionaire, exhibitor, or non-fair permit holder if labor union involvement may lead to, or result in, a strike or picketing of the fairgrounds. A concessionaire, exhibitor, or non-fair permit holder whose permit is canceled shall receive a pro rata refund of unearned rental for the balance of the period provided for in his or her permit. The state of Michigan, its officers, agents, and employees are not liable for damages resulting from the cancellation of a permit.

PART 4. FOOD CONCESSIONS

R 285.1401 Enforcement of health, sanitation, and food laws and regulations.

Rule 401. 2000 PA 92 and its applicable rules governing cooking, dispensing, and sale of foods and beverages shall apply and be strictly enforced. Failure to comply with this rule and other applicable rules and regulations is grounds for cancellation of a food concession permit.

R 285.1402 Rescinded.

R 285.1403 Effect of violation of health sanitation and food laws.

Rule 403 A permit holder who sells or dispenses food products or beverages expressly agrees that the manager may close the permit holder's place of business or expel the permit holder, his or her agents, and his or her employees from the fairgrounds, with forfeiture of all fees, if the permit holder, after being warned by the manager, receives a notice of a violation of health, sanitation, or food laws from appropriate governmental representatives. The permit holder may appeal the closing of his or her place of business, or his or her expulsion, by filing a written request for a review of the decision of the manager. The permit holder's place of business shall not be permitted to operate unless the director reverses the decision of the manager.

R 285.1404 Rescinded.

R 285.1405 Garbage cans ; liners.

Rule 405. A food concessionaire shall furnish a minimum of 2 20-gallon garbage cans that have tops unless more are required by the manager. The concessionaire shall furnish appropriate can liners or bag liners and shall use the liners in all garbage cans. When cans are filled, the concessionaire shall promptly remove the cans, close them securely, and neatly pile them for pickup in a given area, and the concessionaire shall insert a new liner. The fair shall pick up garbage each day.

R 285.1406 Disposable cups and eating utensils.

Rule 406. A food concessionaire shall serve soft drinks to customers only in containers approved by the manager and the department. Dishes and eating utensils used by the public shall be disposable and of a single-service variety.

R 285.1407 Rescinded.

R 285.1408 Item pricing.

Rule 408. A permit holder shall price all items for sale or post price lists on cards in a conspicuous place on his or her stand.

PART 5. AGRICULTURAL EXHIBITS

R 285.1501 Competition open to residents.

Rule 501. (1) Competition in agricultural exhibits is open internationally, unless otherwise specified. All agricultural exhibitors shall own and exhibit their respective entries, unless otherwise specified.

An employee of the upper peninsula state fair may not exhibit.

R 285.1502 Special offers.

Rule 502. The department is not responsible for payment of special offers by various associations and individuals. Upon request, the manager, shall furnish the necessary lists of winning fair agricultural exhibitors to the various organizations.

R 285.1503 Entry applications; closing date; right to compete.

Rule 503. (1) An exhibitor shall apply for entries in all departments on the printed form provided by the fair. An exhibitor, by signing the form, agrees to comply with the provisions printed on the application and in the premium book.

(2) Entries in the departments shall close on the dates listed for the departments in the premium book, or when all available space has been allotted. Late entries shall not be accepted unless the manager determines it is in the best interest of the fair to extend the time period.

(3) If an exhibitor or patron questions the propriety or right of an animal or article to compete in a class, then the exhibitor or patron shall make a written request for a determination from the manager. The manager shall provide a written response.

R 285.1504 Entrance fees; refunds.

Rule 504. The fair shall charge an entry fee as determined by the board and as stated both in the premium book under each of the departments and on the entry application. The entry fee shall be charged to the exhibitor in each department and shall be paid at the time of application. Fees shall not be refunded for animals entered but not exhibited, except under both or the following conditions:

(a) The request for refund is presented in writing with the exhibitor's reason for the request.

The request is accepted by the general manager in the best interest of the fair.

R 285.1505 Conditional acceptance or cancellation of entries; prizes.

Rule 505. (1) When in the best interest of the fair and/or for health and safety reasons, the manager may take any of the following actions for justifiable cause:

(a) Refuse the entry.

(b) Conditionally accept the entry.

Cancel any entries.

The manager shall not permit a cancellation or additional entry after the closing date, unless the manager determines that there is justifiable cause for cancellation or additional entry.

R 285.1506 Exhibition time; late arrival.

Rule 506. An exhibit in each department shall be in place for exhibition at the time specified in the printed provisions for each department. An exhibitor arriving late shall be excluded from an exhibition, except for an exhibitor who is coming directly from another fair and who has advance written permission from the manager.

R 285.1507 Failure or refusal to exhibit.

Rule 507. An exhibitor who fails or refuses to exhibit an animal or article for any reason that is not in the best interest of the fair as determined by the manager shall forfeit all fees and rents paid by him or her, as well as premiums won by earlier exhibits. The manager may order the exhibitor to vacate the stalls, pens, or space, and remove the animals or articles from the fairgrounds.

R 285.1508 Removal of exhibits.

Rule 508. (1) An exhibitor shall remove an exhibit at the time specified in the premium book. An exhibitor who violates this rule shall forfeit all premiums, rights, and privileges without recourse.

Upon written request the manager may permit an early release of an exhibit, due to participation in another exhibit or because of family hardship.

R 285.1509 Exhibits; protection; liability for loss or damage.

Rule 509. The fair management shall use diligence to protect livestock and articles entered for exhibition or display after arrival of the livestock or articles on the fairgrounds. However, the State of Michigan, its officers, agents, and employees are not liable for loss, injury, or damage to the livestock or articles.

R 285.1510 Superintendent's duties.

Rule 510. (1) A superintendent is in charge of the department to which he or she is assigned, and shall enforce all provisions, procedures, and regulations related to the assigned department.

(2) A superintendent shall direct the calling of classes for judging in accordance with the printed program as far as practicable and shall ensure that the judges report fully upon each animal or article exhibited in each class.

A superintendent shall perform all duties required in this rule. A superintendent shall perform the duties under the direction of the manager.

R 285.1510a Livestock committee.

Rule 510a (1) The department shall establish a livestock committee. The membership of the committee shall be comprised or representatives from each of the following:

- (a) Each livestock species committee.
- (b) The auction committee.
- (c) Michigan State University.
- (d) The state veterinarian or his or her designee.
- (e) The director of the Michigan Department of Agriculture Fairs, Exhibitions, and Racing Division or his or her designee.
- (f) A veterinarian in private practice.
- (g) The manager.

The agriculture superintendent shall serve as the staff advisor to the committee.

(2) The committee has all of the following duties:

- (a) Responsibility for the review of all policies and procedures developed by the agriculture superintendent to determine if the policies and procedures are in the best interest of the upper peninsula state fair and the industry.
- (b) Reviewing all complaints filed regarding livestock exhibitions at the fair and making recommendations to the manager for appropriate action.
- (c) Establishing a subcommittee for the livestock auction.
- (d) Establishing a subcommittee for each species to provide recommendations for show guidelines.

R 285.1511 Judges; self-interest; objections.

Rule 511. (1) A person shall not act as judge in a class in which he or she is interested as an exhibitor, agent, or employee of an exhibitor, or otherwise. If a judge is an interested party, then the manager shall remove the interested judge and substitute another judge for that specific class.

A person who objects to a person serving as judge shall submit the objection with specific reasons, in writing, before an award is made. The superintendent shall refer the objection to the manager for a determination based on the promotion of competition and the best interest of the fair.

R 285.1512 Judges; duties; decision.

Rule 512. (1) A judge shall comply with fair regulations, procedures, and policies in deliberating awards.

(2) If a judge has good reason to believe that an exhibitor, by false entry or otherwise, is attempting to deceive the judge or the public to obtain a premium by misrepresentation, then the judge shall report the facts immediately to the superintendent. The superintendent shall report immediately to the manager for a determination of the eligibility of the exhibitor to show the animal or article involved.

(3) The decision of the judge is final, except in the case of a formal protest under R 285.1513.

R 285.1513 Formal protests.

Rule 513. (1) An exhibitor or patron shall make a formal written protest to the manager, which shall be accompanied by an affidavit setting forth the grounds for the protest. A formal protest against an exhibition of animals or articles shall be filed not less than 24 hours before the awards are made. The manager shall hear the protest and make a decision before the judging. A formal protest against a placing shall be filed not more than 6 hours after the placing is made, and shall be considered by the manager. Under procedure established by the department, the manager shall notify all parties and give the parties an opportunity to submit evidence before a final decision is made.

(2) A person who makes a formal protest shall deposit the sum of \$50.00. If the protest is sustained, the fair shall return the deposit to the complainant and if the protest is not sustained, then the deposit shall be forfeited.

(3) An exhibitor against whom a protest has been filed has the right to read the statement of protest.

R 285.1514 Premiums; payment; forfeiture; proration.

Rule 514. (1) Only judges' books may be used as evidence of payment of premiums. Ribbons and tags shall not be used as evidence of payment of premiums.

A judge or superintendent shall report to the manager any exhibitor who insults a judge in any manner or who influences another person to insult a judge. The manager may order the exhibitor to forfeit all premiums and be excluded from exhibiting all of his or her animals or articles.

R 285.1515 Fraud.

Rule 515. (1) If clear and convincing evidence is obtained that a regulation, policy, or procedure has been violated and that fraud or deception has occurred in association with exhibiting in the fair, then the manager shall take 1 or more of the following actions:

(a) Disqualify the exhibit in question.

(b) Disqualify any or all other exhibits of the exhibitor.

(c) Withdraw all premiums, trophies, awards, or money won by the exhibitor.

(d) Bar the exhibitor, the exhibitor's immediate family, or both, from competing at the upper peninsula state fair for a maximum of 3 years. Immediate family includes parents, grandparents, children, grandchildren and siblings.

(2) If fraud or deception is discovered before final placing by the judge, then the exhibit will be declared ineligible to show and the exhibitor will be required to remove the exhibit from the fairgrounds.

(3) If fraud or deception is discovered after an exhibit has been judged, then the placing will be voided and the exhibitor shall remove the exhibit from the fairgrounds. If fraud or deception is discovered after market livestock have been judged and before sale in the livestock sale, then the placing will be voided and the animal may not be sold in the sale. The exhibitor shall remove the market animal from the fairgrounds.

(4) If fraud or deception is discovered after a market animal has been sold, then the money associated with the sale shall be remitted to the buyer. Other animals shall not be moved up in placing. In case any reward has already been awarded, the livestock committee will require the exhibitor to refund all premiums, trophies, awards, ribbons, or sale money under the assessed penalty.

R 285.1516 Rescinded.

R 285.1517 Interpretation and violation of rules.

Rule 517. (1) The manager shall interpret the meaning and application of these rules. An exhibitor may request an opinion from the manager. The request shall be made in writing and returned to the entry office with the award books.

Noncompliance with any rules by an exhibitor shall result in forfeiture of all premiums, rights, and privileges without recourse.

PART 6. ANIMAL EXHIBITS

R 285.1601 Rescinded.

R 285.1602 Policies for exhibition.

Rule 602. (1) The fair shall publish a premium book as required by R 285.811.1 et seq., and make the premium book available to all exhibitors. The fair shall publish the rules for exhibition in the premium book, or shall reference the rules, and make the rules available to an exhibitor upon request.

(2) The livestock committee shall determine generally accepted grooming practices for livestock and publish the practices in the premium book.

R 285.1603 Health requirements.

Rule 603. (1) All livestock presented for exhibition shall have a valid required official health certificate or a certificate of veterinary inspection and proof of required testing and negative results before displaying, exhibiting, or stabling animals in the exhibition area or commingling with other animals.

The official health certificate or certificate of veterinary inspection and the required testing shall be as defined in 1988 pa 466, MCL 287.701 et seq or by the department and published in the premium book.

(3) Each animal presented for exhibition shall be examined by a veterinarian or veterinarian's representative before displaying, exhibiting, or stabling in the exhibition area or before commingling with other animals.

(4) The presentation of an animal for examination shall occur at scheduled intervals depending on the exhibition schedule.

R 285.1604 Cruelty; prohibited conduct.

Rule 604. (1) Livestock shall be treated in a humane manner and in accordance with generally accepted agricultural and management practices for the care of farm animals and acceptable commercial practices to

protect the livestock's health, safety, or welfare. The livestock supervisor shall notify the proper authority if cruel or prohibited conduct is observed.

(2) All of the following practices are presumed to be threats to livestock health, safety or welfare; human health, safety, or welfare; or food safety, and are prohibited:

(a) Injection or insertion of any material into an animal for nonmedical purposes to modify the conformation or appearance of the animal.

(b) Injection or insertion of any material into an animal for medical purposes with the intent of the side effect causing a modification of the conformation or appearance of the animal.

(c) Striking, beating, hitting, or otherwise contacting an animal that would induce swelling or changes, or that transforms conformation or appearance of that animal.

(d) Electric prods, canvas slappers, or other implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury. Any use of such implements which, in the opinion of the superintendent, is excessive, is prohibited. Electrical prods attached to ac house current shall be reduced by a transformer to the lowest effective voltage not to exceed to 50 volts AC. Pipes, sharp or pointed objects, and other items which, in the opinion of the superintendent, would cause injury or unnecessary pain to the animal shall not be used.

(e) Performance of any surgical procedure to modify the conformation or appearance of an animal, except for surgical procedures performed by a licensed veterinarian for reasons of medical necessity or standard animal care practices.

(f) Presentation of any animal suspected of retaining any testicular or accessory reproductive tissue whether by natural occurrence or surgical process.

(g) Administration or permitting the administration of a prescription drug to livestock, intended for terminal or part-terminal show, either before or during the exhibition, unless the prescription drug is administered under all the following conditions:

(i) By or under the supervision of a veterinarian.

(ii) In accordance with label directions.

(iii) With an established veterinarian-client-patient relationship.

(iv) For a valid medical purpose only.

(v) The timing of drug withdrawal can be followed without risk to food safety.

(h) Administration or permitting the administration of an over-the-counter drug to livestock, intended for terminal or part-terminal show, either before or during the exhibition, unless the over-the-counter drug is administered under all of the following conditions:

(i) Under the supervision of the exhibitor or owner.

(ii) In accordance with label directions only.

(iii) For a valid medical purpose only.

(iv) The timing of drug withdrawal can be followed without risk to food safety.

(i) Administration or permitting the administration of an extra-label usage drug to livestock, intended for terminal or part-terminal show, either before or during the exhibition, unless the extra-label usage drug is administered under all of the following conditions:

(i) By or under the supervision of a veterinarian.

(ii) Used only as the extra-label directions provided by the veterinarian describe.

(iii) With an established veterinarian-client-patient relationship.

(iv) For a valid medical purpose only.

(v) The timing of drug withdrawal is extended as stated by the prescribing veterinarian on the label and can be followed without risk to food safety.

- (j) Administration or permitting the administration of a prescription, extra-label usage, or over-the-counter drug to livestock, intended for a non-terminal show, either before or during the exhibition, unless the drug as described is administered under all of the following conditions:
 - (i) By or under the supervision of a veterinarian, if a prescription or extra-label usage drug is used by or under the supervision of the exhibitor or owner, if an over-the-counter drug is used.
 - (ii) Use only as directed by the label or prescription.
 - (iii) With an established veterinarian-client-patient relationship.
 - (iv) For a valid medical purpose only.
- (k) Food products obtained from livestock administered a drug shall not be used for human consumption. An example of a food product includes milk.
- (3) The exhibitor is responsible for any violation related to the adulteration or possible adulteration of livestock or food products. A violation includes either of the following:
 - (a) Improper withdrawal times followed or condemnation of carcasses due to violative drug residues.
 - (b) Taints and product quality issues.

R 285.1605 Drug testing of exhibition livestock.

Rule 605. (1) The livestock supervisor shall develop an exhibitor code of conduct and project animal certification/care form for all animal exhibitors.

(2) The livestock supervisor shall collect and retain signed animal certification forms for all animal exhibitors entered in animal classes.

(3) Both of the following provisions apply to required drug testing of grand champions and reserve grand champions:

(a) The grand champion and reserve grand champion from the market steer, market hog, and market lamb classes are subject to blood, urine, hair or tissue testing.

(b) The exhibitor, parent, or guardian shall take the champion animal to the testing area immediately after being named champion.

(4) The veterinarian or his or her designee shall collect urine, blood, tissue, and other test samples in accordance with the department's protocol for the collection of livestock test samples at exhibitions. Test samples may be collected before, during, or immediately after a show. Deviations from the protocol shall be noted.

(5) The veterinarian or his or her designee may collect any urine, blood, tissue, or other test samples from the exhibition animals at the time of slaughter.

(6) The general manager may disqualify any animal, either live or slaughtered, found to be in violation of these rules pertaining to the use of drugs, chemicals, feed additives or any other portion of R 285.1604.

(7) Both of the following provisions apply to random testing of animal exhibits:

An animal entered in the fair is subject to blood, urine, hair, or tissue testing for just cause at the discretion of the manager or his or her designated representative.

The fair manager may implement a random blood, urine, hair or tissue testing program.

(c) The veterinarian or his or her designee shall collect urine, blood, tissue, and other test samples in accordance with the department's protocol for the collection of livestock test samples at exhibitions. The veterinarian or his or her designee may collect test samples before, during, or immediately after a show. Deviations from the protocol shall be noted.

Testing procedure

(a) The fair manager shall provide notification to exhibitors of animals that those animals are subject to blood, urine, hair, or tissue testing.

(i) By placing as grand or reserve champion

For just cause suspicion

(iii) As part of a random testing program

(b) The general manager shall ensure that identification of animals tested and test samples is accurate.

(c) The general manager shall notify exhibitors of the results from testing in a timely manner.

(d) The notification and procedure for test sample collections shall be printed in the premium book.

R 285.1606 Tampering or sabotage prohibited.

Rule 606. Tampering with or sabotaging an exhibit, as defined in R 285.1101, is prohibited.

R 285.1607 Livestock sale.

Rule 607 (1) An exhibitor who exhibits livestock at a terminal show or partial terminal show consents to participate in an auction sale as follows:

(a) All bidders at an auction sale following a terminal show or partial terminal show shall consent to the slaughter of the livestock or delivery of the livestock to a licensed sale or slaughter facility.

(b) Title to livestock sold at an auction sale and subsequently presented for slaughter or sale at a licensed livestock facility shall remain vested in the exhibitor, or, if the exhibitor is not the owner then title is vested, in the owner until the livestock has been passed by inspection.

(c) During inspection or testing, if the livestock carcass is preliminarily determined to have been tampered with or found to contain an unlawful substance, then 1 of the following shall occur:

(i) If the livestock carcass must be trimmed or reconditioned to comply with the meat inspection requirements, then the carcass shall be trimmed and reconditioned and released to the exhibitor, unless the successful bidder accepts the trimmed or reconditioned carcass.

(ii) If the livestock carcass cannot be trimmed or reconditioned, then the livestock carcass shall be condemned in accordance with the meat inspection requirements.

(iii) If testicular or accessing reproductive tissue is found, then the animal shall be disqualified and the carcass released to the exhibitor.

R 285.1608 Rescinded.

R 285.1609 Rescinded.

PART 7. COMMUNITY ARTS AND YOUTH EXHIBITORS

R 285.1701 Competition open to residents; exceptions.

Rule 701. (1) Competition in the community arts and youth departments is open. The community arts and youth exhibit shall be the work of the exhibitor and shall be shown in the exhibitor's name.

(2) An amateur is permitted to enter his or her work in competition unless otherwise stated. An amateur is a person who does not sell for profit on a part or full-time basis and whose exhibit represents a recreational hobby.

(3) A professional is a person who is engaged in activity for a monetary profit of more than \$2000.00 annually as a result of his or her craft skill.

(4) An employee of the upper peninsula state fair may not directly or indirectly exhibit an article in this section.

R 285.1702 Exhibit class qualifications.

Rule 702. (1) All entries in each class of community arts and youth exhibits shall meet the qualification specified for each class.

(2) An exhibitor may make an entry in each class listed, but the fair may limit a community arts and youth exhibitor as to the number of classes or number of entries he or she may enter.

(3) The fair shall print specific provisions for making entries in the annual premium list for the community arts and youth departments.

R 285.1703 Works of art.

Rule 703. An artist may enter a work of art in each class but it shall be a work of art not previously shown at the fair. The manager may reject an entry that is fragile, unsuitable in size, or inconsistent with contemporary community standards.

R 285.1704 Judges.

Rule 704. (1) The fair shall select judges and a judge's decision is final.

(2) In the absence of competition in a class, and if an article exhibited is inferior in quality or unworthy, then the judges shall award a prize or ribbon only if the entered article merits an award.

R 285.1705 Formal protests.

Rule 705. A community arts or youth exhibitor or others shall make a formal protest in writing to the manager. The protest shall be accompanied by an affidavit setting forth the grounds for the protest. A formal protest against a community arts and youth exhibit shall be filed not less than 24 hours before the judging and the manager shall hear the protest and make a decision before the judging. A formal protest against a placing shall be filed not more than 6 hours after the placing is made and shall be considered by the manager. Interested parties shall be duly notified and given an opportunity to submit evidence before a final decision pursuant to a procedure established by the director.

PART 8. GAMES

R 285.1801 Operation of games; games limited.

Rule 801. (1) A contractor or vendor shall not operate a game in a manner that presents a hazard to the safety of a patron or the public in general. The contractor or vendor shall ensure that game equipment is in sound, safe operating condition. Material used in the construction of a game shall be sufficient to meet its intended use. If the manager feels that there is a hazard in the operation of a game, the equipment used, or the construction of a game, or any part thereof, then the manager shall close the game until corrections are made to the satisfaction of the manager.

(2) Only games of skill are permitted to be operated on the Upper Peninsula state fairgrounds during the annual Upper Peninsula state fair. Games of chance, or games partly of skill and partly of chance, are prohibited on the grounds.

PART 9. HEARINGS

R 285.1901 Complaint.

Rule 901. A party interested in a contested matter may request a hearing and shall submit a written comprehensive statement of the complaint, to the director, within 15 days of becoming aware of the contested action.

R 285.1902 Procedure and rules.

Rule 902. Notice of a hearing before the director or a designated hearing officer shall be given by registered mail. The notice shall state the date, hour, place, and issues involved. The notice shall be mailed not less than 30 days before the hearing to all interested parties.

R 285.1903 Appearance.

Rule 903. An appearance shall be made in person, by a duly authorized representative, or by counsel. If a person who has been served with a notice of hearing fails to appear at a hearing, then the hearing officer may proceed with a hearing of the matter brought before him or her, and on the evidence presented, may make his or her decision.

R 285.1904 Adjournments and continuances.

Rule 904. A hearing shall not be adjourned or continued, except upon order of the director or the hearing officer conducting the hearing. A motion or request of adjournment or a continuance shall be in writing and state concisely the reasons for adjournment or continuance. The motion or request shall not be considered unless it is filed with the department not less than 10 days before the date assigned for the hearing.

R 285.1905 Depositions.

Rule 905. A deposition shall be taken only upon written permission of the hearing officer where it is proved in writing to the department that it is impractical or impossible to otherwise obtain the evidence. A deposition shall be taken under the general court rules of this state for taking depositions in civil cases, and all parties shall be given an opportunity to cross-examine a deposed witness under oath.

R 285.1906 Answers, briefs, and arguments.

Rule 906. A person who has been served with a notice of hearing may file a written answer before the date set for hearing, or may appear at the hearing and present an oral statement on the charges contained in the notice of hearing. If written briefs or arguments are presented, then a copy shall be served on the department and upon opposing parties, not less than 4 10 days before the date set for the hearing.

R 285.1907 Conducting hearing.

Rule 907. The hearing officer shall conduct the hearing in accordance with 1969 PA 306, MCL 24.201 et seq.

**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

MCL 24.242(3) states in part:

“... the agency shall submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the office of regulatory reform.”

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.”

PROPOSED ADMINISTRATIVE RULES

ORR # 2001-008

DEPARTMENT OF ENVIRONMENTAL QUALITY

SURFACE WATER QUALITY DIVISION AND WASTE MANAGEMENT DIVISION

WATER RESOURCES PROTECTION

Filed with the Secretary of State on ~~March 8, 2000~~ _____.
These rules take effect ~~15~~ 7 days after filing with the Secretary of State.

(By authority conferred on the ~~director of the~~ department of environmental quality by sections ~~501, 502~~ 3103 and ~~503~~ 3106 of Act No. ~~451 of the Public Acts of 1994, as amended, 1994 PA 451, MCL 324.3103 and 324.3106 and Executive Reorganization Order No. 1995-16, being §§324.501, 324.502, 324.503, and 324.99903 of the Michigan Compiled Laws.)~~

~~R 323.2101 to R 323.2317~~ R 323.2101, R 323.2102, R 323.2103, R 323.2104, R 323.2106, R 323.2108, R 323.2109, R 323.2112, R 323.2114, R 323.2115, R 323.2117, R 323.2118, R 323.2119, R 323.2121, R 323.2122, R 323.2124, R 323.2125, R 323.2127, R 323.2128, R 323.2130, R 323.2131, R 323.2133, R 323.2134, R 323.2136, R 323.2137, R 323.2138, R 323.2139, R 323.2140, R 323.2141, R 323.2142, R 323.2145, R 323.2146, R 323.2147, R 323.2149, R 323.2150, R 323.2151, R 323.2153, R 323.2154, R 323.2155, R 323.2159, R 323.2160, R 323.2161, R 323.2189, R 323.2190, R 323.2191, R 323.2192, R 323.2193, and R 323.2195 of the Michigan Administrative Code are amended ~~by adding R 323.2193~~ ~~R 323.2194, and R 323.2195,~~ R 323.2161a IS ADDED TO THE CODE, and R 323.2111 AND R 323.2126 OF THE CODE ARE RESCINDED as follows:

PART 21. WASTEWATER DISCHARGE PERMITS

R 323.2101 Purpose.

~~Rule 4404~~ 2101. (1) These rules are ~~promulgated~~ BEING PROCESSED to implement the 1972 amendments to ~~the commission act~~ PART 31 OF THE ACT which authorized the initiation of a waste or waste effluent discharge permit system compatible with the national pollutant discharge elimination system (NPDES). The NPDES has been initiated by the federal Congress through the enactment of the federal water pollution control act amendments of 1972, (United States Public Law 92—500 33 U.S.C. §1251 ET SEQ.). IN GENERAL, the rules outline ~~in general~~ ALL OF THE FOLLOWING:

- (a) The procedures by which all persons discharging wastes into the waters of the state shall apply for waste or waste effluent discharge permits as required by ~~the commission act~~ PART 31 OF THE ACT.
- (b) Exceptions to procedural requirements.
- (c) Public participation procedures and hearings on permit applications.
- (d) Procedures by which permits are issued or denied by the ~~commission~~ DEPARTMENT.
- (e) Appeals procedures.
- (f) Permit conditions and monitoring of waste or wastewater discharges.

(2) The promulgation of these rules, in association with ~~the commission act~~ PART 31 OF THE ACT, as amended, provides sufficient authority to the state, upon approval by the United States environmental protection agency, to issue permits for waste or wastewater discharges under the NPDES pursuant to section 402(b) of the United States Public Law 92-500, (33 U.S.C. §1251 ET SEQ.). The ~~water resources commission~~ DEPARTMENT is the state agency designated by state law to administer this program.

R 323.2102 Definitions; A to F.

Rule 2102. As used in this part:

(a) “Act 347” means 1994 PA 451, MCL 324.3101 ET SEQ. ~~Act No. 347-451 of the Public Acts of 1972 1994, as amended, being §282.101 et seq. §§324.3101 TO 324.3133 of the Michigan Compiled Laws, and the rules promulgated thereunder~~ UNDER THE ACT.

(b) ~~“Act 347 permitting entity” means an agency that is designated by a county board of commissioners pursuant to the provisions of section 6 of act 347, an agency that is designated by a city, village, or charter township in accordance with the provisions of section 7 of act 347, or the department if the construction activity overlaps more than 1 permitting entity.~~

(eB) “Applicant” means a person who applies to the ~~commission~~ DEPARTMENT for a state or national permit to discharge waste or wastewaters into the waters of the state by an NPDES application form, OR a state permit application form, ~~or a refuse act permit application form.~~

(dC) “Application” means either the uniform national NPDES application form, including subsequent additions, revisions, or modifications thereof, promulgated by the administrator of EPA and adopted for use by the ~~commission~~ DEPARTMENT or a state permit application form for applying for a permit.

(eD) “Approved control plan” means the plan which is prepared by an authorized public agency, which is approved by the ~~director~~ DEPARTMENT pursuant to the provisions of section 44 9110 of ~~act 347~~ PART 91 OF THE ACT, and which contains the soil erosion and sedimentation control procedures that govern all construction activities normally undertaken by the authorized public agency.

(fE) “Authorized public agency” means a state, local, or county agency that is designated pursuant to the provisions of section 44 9110 of ~~act 347~~ PART 91 OF THE ACT to implement soil erosion and sedimentation control requirements with regard to construction activities undertaken by the agency.

(F) “AUTHORIZED REPRESENTATIVE” MEANS A PERSON WHO HAS WRITTEN AUTHORIZATION FROM THE CONSTRUCTION PERMITTEE TO SIGN THE NOTICE OF COVERAGE IN THE NAME OF THE CONSTRUCTION PERMITTEE.

(g) ~~“Categorical pretreatment standards” means those portions of federal regulations that pertain to nondomestic sources promulgated by the EPA pursuant to the provisions of section 307(b) and (c) of the federal act and adopted by reference in R 323.2165 to R 323.2185.~~

(hG) “Certified storm water operator” means an individual who has been certified by the department pursuant to the provisions of section 6(a) 3110 of ~~the commission act~~ PART 31 OF THE ACT as properly qualified to operate treatment or control facilities for storm water discharges.

(i) ~~“Commission” means the water resources commission.~~

(j) ~~“Commission act” means Act No. 245 of the Public Acts of 1929, as amended, being 323.1 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder.~~

(kH) “Construction activity” means a man-made earth change or disturbance in the existing cover or topography of land ~~that is equal to or more than 5 acres in size~~ for which a national permit is required pursuant to the provisions of 40 C.F.R. §122.26(a) (2000) and which is ANY OF THE FOLLOWING:

(i) FIVE ACRES OR MORE IN SIZE AND defined as a construction activity pursuant to the provisions of 40 C.F.R. §122.26(b)(14)(x) (2000).

(ii) ONE ACRE OR MORE IN SIZE AND DEFINED AS A SMALL CONSTRUCTION ACTIVITY PURSUANT TO THE PROVISIONS OF 40 C.F.R. §122.26(b)(15) (2000).

(iii) LESS THAN 1 ACRE OF TOTAL LAND AREA THAT IS PART OF A LARGER COMMON PLAN OF DEVELOPMENT OR SALE IF THE LARGER COMMON PLAN WILL ULTIMATELY DISTURB 1 ACRE OR MORE.

The term includes clearing, grading, and excavating activities. The term does not include the practices of clearing, plowing, and tilling soil and harvesting for the purpose of crop production.

(II) "Construction permittee" means a person who is deemed to have a national permit pursuant to the provisions of R 323.2190 and who owns or holds a recorded easement on the property where a construction activity is located, is constructing in a public right-of-way in accordance with the provisions of sections 13, 14, 15, and 16 of ~~Act No. 368 of the Public Acts of 1925, as amended, being §§ 1925 PA 368, MCL 247.183, 247.184, 247.185, and 247.186 of the Michigan Compiled Laws~~, or is the authorized public agency if a construction activity is carried out by the authorized public agency.

(mJ) "~~Director~~ DEPARTMENT" means the director of the department of ~~natural resources~~ ENVIRONMENTAL QUALITY OR HIS OR HER DESIGNEE TO WHOM THE DIRECTOR DELEGATES A POWER OR DUTY BY WRITTEN INSTRUMENT.

(nK) "Discharge" means any direct or indirect discharge of any waste, waste effluent, wastewater, pollutant, or any combination thereof into any of the waters of the state or upon the ground.

(oL) "Discharger" means any person who discharges, directly or indirectly, any substance defined by section 6 3109 of ~~the commission act~~ PART 31 OF THE ACT, any treated or untreated waste, waste effluent, wastewater, or pollutant; or cooling waters into any of the waters of the state or upon the ground.

(pM) "Draft permit" means a draft of a permit which is proposed to be issued by the ~~commission~~ DEPARTMENT, which is prepared by staff of the ~~commission~~ DEPARTMENT before public notice of an application for a permit by a discharger, and which contains proposed effluent standards and limitations, proposed compliance schedules, and other proposed conditions or restrictions deemed necessary by the ~~commission~~ DEPARTMENT for a discharge.

(qN) "Effluent standards and limitations" means all state or federal effluent standards and limitations on quantities, rates, and concentrations of chemical, physical, biological, and other constituents to which a waste or wastewater discharge may be subject under the federal act or ~~the commission act~~ PART 31 OF THE ACT, including all of the following:

(i) Effluent limitations.

(ii) Standards of performance.

(iii) Toxic effluent standards and prohibitions.

(iv) Pretreatment standards.

(v) Schedules of compliance.

(rO) "EPA" means the United States environmental protection agency.

(s) "~~Executive secretary~~" means ~~the executive secretary of the commission~~.

(tP) "Fact sheet" means a description of a discharge which is available to the public, which is prepared by the ~~commission~~ DEPARTMENT pursuant to the guidelines, and which includes all of the following information:

(i) Information on the location of the discharge.

(ii) Rate or frequency of the discharge.

(iii) Components of the discharge.

(iv) Proposed determinations of the ~~commission~~ DEPARTMENT regarding the discharge.

(v) The location and identification of uses of the receiving waters.

(vi) Water quality standards and procedures for formulation of final determinations on the discharge by the ~~commission~~ DEPARTMENT.

(uQ) “Federal act” means the federal water pollution control act, commonly referred to as the clean water act, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, Public Law 97-1171, and Public Law 100-4, 33 U.S.C. §1251 et seq., and the rules and regulations promulgated thereunder.

R 323.2103 Definitions; G to N O.

Rule 2103. As used in this part:

(a) “General permit” means a national permit issued authorizing a category of similar discharges.

(b) “Guidelines” means the federal guidelines promulgated by EPA entitled “Part 123 - State Program Elements Necessary for Participation in the National Pollutant Discharge Elimination System,” 40 C.F.R. §123 et seq.,(1984).

(C) “ILLICIT CONNECTION” MEANS A PHYSICAL CONNECTION TO A SEPARATE STORM SEWER SYSTEM THAT PRIMARILY CONVEYS NON STORM WATER DISCHARGES OTHER THAN UNCONTAMINATED GROUNDWATER INTO THE SYSTEM; OR A PHYSICAL CONNECTION NOT AUTHORIZED OR PERMITTED BY THE LOCAL AUTHORITY, WHERE A LOCAL AUTHORITY REQUIRES AUTHORIZATION OR A PERMIT FOR PHYSICAL CONNECTIONS.

(D) “ILLICIT DISCHARGE” MEANS ANY DISCHARGE TO, OR SEEPAGE INTO, A SEPARATE STORM SEWER THAT IS NOT COMPOSED ENTIRELY OF STORM WATER OR UNCONTAMINATED GROUNDWATER. ILLICIT DISCHARGES INCLUDE NON-STORM WATER DISCHARGES THROUGH PIPES OR OTHER PHYSICAL CONNECTIONS; AND DUMPING OF MOTOR VEHICLE FLUIDS, HOUSEHOLD HAZARDOUS WASTES, GRASS CLIPPINGS, LEAF LITTER, DOMESTIC ANIMAL WASTES, LITTER, OR UNAUTHORIZED DISCHARGES OF SEWAGE, INDUSTRIAL WASTE, RESTAURANT WASTES, OR ANY OTHER NON-STORM WATER WASTE DIRECTLY INTO A SEPARATE STORM SEWER SYSTEM.

(eE) “Industry” means a private person, corporation, firm, plant, or establishment that directly or indirectly discharges waste or wastewater into the waters of the state.

(dF) “Local limit” means a specific prohibition or limit on discharges of pollutants or pollutant parameters by a nondomestic source to a POTW that are set by a POTW in accordance with an approved pretreatment program.

(eG) “Mailing list” means a permanent list of persons who request notification and information on public hearings, permits, and other NPDES forms that is prepared and maintained by the ~~commission~~ DEPARTMENT pursuant to the guidelines, these rules, and ~~Act No. 306 of the Public Acts of 1969, as amended, being § 1969 PA 306, MCL 24.201 et seq. of the Michigan Compiled Laws.~~

(fH) “Management agency” means an areawide waste treatment management agency that is designated by the governor pursuant to the provisions of section 208(a) of the federal act.

(I) “MAXIMUM EXTENT PRACTICABLE” OR “MEP” MEANS IMPLEMENTATION OF BEST MANAGEMENT PRACTICES TO COMPLY WITH AN APPROVED STORM WATER MANAGEMENT PROGRAM AS REQUIRED IN A NATIONAL PERMIT FOR A MUNICIPAL SEPARATE STORM SEWER SYSTEM OPERATOR, IN A MANNER THAT IS ENVIRONMENTALLY BENEFICIAL, TECHNICALLY FEASIBLE, AND WITHIN THE OPERATOR’S LEGAL AUTHORITY.

(gJ) “Minor discharge” means a discharge of wastewater which has a total volume of less than 50,000 gallons on every day of the year, which does not affect the waters of another state, and which is not identified by the ~~commission~~ DEPARTMENT, the regional administrator, or by the administrator of EPA, in regulations issued by him or her pursuant to the provisions of section 307(a) of the federal act, as a discharge which is not a minor discharge, except that a discharge is not a minor discharge if there is a discharge of less than 50,000 gallons on any day of the year which represents 1 of 2 or more discharges from a single person, municipality, or industry that, in total, is more than 50,000 gallons on any day of the year.

(K) “MS4 OPERATOR” OR “MUNICIPAL SEPARATE STORM SEWER SYSTEM OPERATOR” MEANS A PUBLIC BODY OR STATUTORY HOUSING AUTHORITY THAT EITHER OWNS A SEPARATE STORM SEWER SYSTEM OR HAS THE POWER OR AUTHORITY TO IMPLEMENT OR CARRY OUT ANY OF THE MINIMUM MEASURES FOR STORM WATER POLLUTION CONTROL AS DESCRIBED IN R 323.2161a.

THE TERM MAY INCLUDE ANY PUBLIC BODY OR STATUTORY HOUSING AUTHORITY THAT MEETS EITHER OF THE CONDITIONS IN THIS SUBDIVISION, EVEN IF LOCATED WHOLLY OR PARTLY WITHIN THE POLITICAL OR TERRITORIAL BOUNDARY OF ANOTHER MS4 OPERATOR.

(hL) “National permit” means an NPDES permit, or equivalent document or requirements, issued by the ~~commission~~ DEPARTMENT to a discharger pursuant to sections 5 3106 and 7 3112 of ~~the commission act~~ PART 31 OF THE ACT for discharges into surface waters.

(iM) “New source” means a building, structure, facility, or installation from which waste, pollutants, or wastewater is or may be discharged into the surface or groundwaters of the state or on the ground and for which construction was commenced after publication of proposed regulations by EPA prescribing a standard of performance pursuant to the provisions of section 306(a) of the federal act that will be applicable to the source if the standard is thereafter promulgated in accordance with the provisions of section 306 of the federal act.

(jN) “Noncompliance list” means a list of dischargers, which is prepared by the ~~executive secretary~~ DEPARTMENT pursuant to these rules and the guidelines for transmittal to the regional administrator, who fail or refuse to comply with a compliance schedule in a permit issued pursuant to ~~the commission act~~. PART 31 OF THE ACT.

(kO) “Nondomestic source” or “source of nondomestic wastewater” means an industry, commercial establishment, or other entity that discharges wastewater to a publicly owned treatment works other than, or in addition to, water-carried wastes from toilet, kitchen, laundry, bathing, or other facilities that are used for household purposes.

(mP) “NPDES” means the national pollutant discharge elimination system established by the federal act.

(nQ) “NPDES form” means any issued permit and any uniform national form which is used by the ~~commission~~ DEPARTMENT, which is developed for use in the NPDES, and which is prescribed in regulations promulgated by the administrator of EPA, including an NPDES application, a ~~refuse act permit application~~, and a reporting form.

(R) “ON-SITE DISPOSAL SYSTEM” MEANS A NATURAL SYSTEM OR MECHANICAL DEVICE USED TO COLLECT, TREAT, AND DISCHARGE OR RECLAIM WASTEWATER FROM 1 OR MORE DWELLING UNITS WITHOUT THE USE OF COMMUNITY-WIDE SEWERS OR A CENTRALIZED TREATMENT FACILITY.

R 323.2104 Definitions; P to W.

Rule 2104. As used in this part:

(A) "PART 91 PERMITTING ENTITY" MEANS AN AGENCY THAT IS DESIGNATED BY A COUNTY BOARD OF COMMISSIONERS PURSUANT TO THE PROVISIONS OF SECTION 9105 OF PART 91 OF THE ACT; AN AGENCY THAT IS DESIGNATED BY A CITY, VILLAGE, OR TOWNSHIP IN ACCORDANCE WITH THE PROVISIONS OF SECTION 9106 OF PART 91 OF THE ACT; OR THE DEPARTMENT IF THE CONSTRUCTION ACTIVITY OVERLAPS MORE THAN 1 PERMITTING ENTITY.

(aB) "Person" means an individual, partnership, association, corporation, industry, OR PUBLIC BODY. ~~municipality, state agency, or interstate body.~~

(bC) "Point source discharge" means a discharge that is released to the waters of the state by a discernible, confined, and discrete conveyance, including any of the following from which wastewater is or may be discharged:

- (i) A pipe.
- (ii) A ditch.
- (iii) A channel.
- (iv) A tunnel.
- (v) A conduit.
- (vi) A well.
- (vii) A discrete fissure.
- (viii) A container.
- (ix) A concentrated animal feeding operation.
- (x) A vessel or other floating craft.

The term does not include a legally established county or intercounty drain, except for a county or intercounty drain that has a POTW designated as part of the drain or a discharge otherwise required to be authorized by a national permit.

(D) "PUBLIC BODY" MEANS THE UNITED STATES, THE STATE OF MICHIGAN, CITY, VILLAGE, TOWNSHIP, COUNTY, SCHOOL DISTRICT, PUBLIC COLLEGE OR UNIVERSITY, SINGLE PURPOSE GOVERNMENTAL AGENCY; OR ANY OTHER BODY WHICH IS CREATED BY FEDERAL OR STATE STATUTE OR LAW.

(eE) "Publicly owned treatment works" or "POTW" means either of the following:

(i) A facility or facilities which are owned by a governmental entity and which are used or intended to be used for the collection and treatment of municipal wastewater, including sewage, liquid industrial waste, and storm water.

(ii) The owner or owners of a facility or facilities specified in paragraph (i) of this subdivision.

~~(d) "Refuse act permit application" means an application for a permit that is issued under the authority of section 13 of the rivers and harbor act of 1899, 33 U.S.C. §407.~~

(eF) "Regional administrator" means the EPA region V administrator.

(fG) "REGULATED MS4 OPERATOR" MEANS AN MS4 OPERATOR THAT IS REQUIRED TO APPLY FOR OR OBTAIN A NATIONAL PERMIT TO DISCHARGE STORM WATER INTO SURFACE WATERS OF THE STATE FROM A SEPARATE STORM SEWER SYSTEM PURSUANT TO R 323.2161.

(fH) "Regulated pollutants" means all of the following:

- (i) Pollutants that are limited by categorical pretreatment standards AS DEFINED IN R 323.2302(g).
- (ii) Pollutants for which control measures on nondomestic sources are necessary to avoid noncompliance with effluent limitations established in the POTW's discharge permit.

(iii) Pollutants for which control measures on nondomestic sources are necessary to avoid restricting the POTW's approved residuals management program.

(iv) Pollutants for which control measures on nondomestic sources are necessary to avoid operational problems at the treatment facility or collection system.

(gI) "Reporting form" means the uniform NPDES reporting form, including subsequent additions, revisions, or modifications thereof, which is promulgated by the administrator of EPA and which is adopted by the ~~commission~~ DEPARTMENT for use in administering these rules, or a state form that is prescribed by the ~~commission~~ DEPARTMENT for use in administering these rules, for reporting data and information to the ~~commission~~ DEPARTMENT by a discharger on monitoring and other conditions of permits.

(hJ) "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

(K) "SEPARATE STORM SEWER SYSTEM" MEANS A SYSTEM OF DRAINAGE, INCLUDING, BUT NOT LIMITED TO, ROADS, CATCH BASINS, CURBS, GUTTERS, PARKING LOTS, DITCHES, CONDUITS, PUMPING DEVICES, OR MAN-MADE CHANNELS, WHICH HAS THE FOLLOWING CHARACTERISTICS:

(i) THE SYSTEM IS DESIGNED OR USED FOR COLLECTING OR CONVEYING STORM WATER FROM AN AREA OF LAND LARGER THAN THE AREA NEEDED FOR A SINGLE BUILDING AND ASSOCIATED PARKING.

(ii) THE SYSTEM IS NOT A COMBINED SEWER WHERE STORM WATER MIXES WITH SANITARY WASTES.

(iii) THE SYSTEM IS NOT PART OF A PUBLICLY OWNED TREATMENT WORKS (POTW).

(iL) "Site" means the area where a construction activity is physically located or conducted, including adjacent land that is used in connection with the construction activity.

(jM) "Soil erosion and sedimentation control permit" means a permit that is issued pursuant to the provisions of ~~act 347~~ PART 91 OF THE ACT by ~~an act 347~~ A PART 91 permitting entity.

(kN) "Soil erosion control measures" means the measures or procedures to prevent or reduce the pollution of waters of the state that are required in the soil erosion and sedimentation control permit for the site or the selected control measures from the approved control plan that are applicable to the site.

(iO) "Stabilization of earth change activity" means the proper placement, grading, or covering of soil or rock at a construction activity to ~~i~~Ensure subsequent resistance to soil erosion, sliding, or other earth movement.

(mP) "State permit" means a permit or equivalent document or requirements that are issued by the ~~commission~~ DEPARTMENT to a discharger who discharges wastewater on the ground or into groundwaters.

(Q) "STATUTORY HOUSING AUTHORITY" MEANS THE GOVERNING BODY OF A CONDOMINIUM ASSOCIATION OF COOWNERS OR MANUFACTURED HOME COMMUNITY.

(nR) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

(S) "STORM WATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY" MEANS THE DISCHARGE FROM ANY CONVEYANCE THAT IS USED FOR COLLECTING AND CONVEYING STORM WATER AND THAT IS DIRECTLY RELATED TO MANUFACTURING, PROCESSING, OR RAW MATERIALS STORAGE AREAS AT AN INDUSTRIAL PLANT. THE TERM DOES NOT INCLUDE DISCHARGES FROM FACILITIES OR ACTIVITIES EXCLUDED FROM THE NATIONAL PERMITS PROGRAM UNDER 40 C.F.R. §122.3 AND §122.27 (2000). FOR THE CATEGORIES OF INDUSTRIES IDENTIFIED IN THIS SUBDIVISION, THE TERM INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

(i) STORM WATER DISCHARGES FROM INDUSTRIAL PLANT YARDS.

(ii) IMMEDIATE ACCESS ROADS AND RAIL LINES USED OR TRAVELED BY CARRIERS OF RAW MATERIALS, MANUFACTURED PRODUCTS, WASTE MATERIAL, OR BY-PRODUCTS USED OR CREATED BY THE FACILITY.

(iii) MATERIAL HANDLING SITES.

(iv) REFUSE SITES.

(v) SITES USED FOR THE APPLICATION OR DISPOSAL OF PROCESS WASTE WATERS, AS DEFINED AT 40 C.F.R. §401.11 (2000).

(vi) SITES USED FOR THE STORAGE AND MAINTENANCE OF MATERIAL HANDLING EQUIPMENT.

(vii) SITES USED FOR RESIDUAL TREATMENT, STORAGE, OR DISPOSAL.

(viii) SHIPPING AND RECEIVING AREAS.

(ix) MANUFACTURING BUILDINGS.

(x) STORAGE AREAS, INCLUDING TANK FARMS, FOR RAW MATERIALS AND INTERMEDIATE AND FINAL PRODUCTS.

(xi) AREAS WHERE INDUSTRIAL ACTIVITY HAS TAKEN PLACE IN THE PAST AND SIGNIFICANT MATERIALS REMAIN AND ARE EXPOSED TO STORM WATER.

FOR THE PURPOSES OF THIS SUBDIVISION, MATERIAL HANDLING ACTIVITIES INCLUDE STORAGE, LOADING AND UNLOADING, TRANSPORTATION, OR CONVEYANCE OF ANY RAW MATERIAL, INTERMEDIATE PRODUCT, FINAL PRODUCT, BY-PRODUCT, OR WASTE PRODUCT.

THE TERM EXCLUDES AREAS LOCATED ON PLANT LANDS SEPARATE FROM THE PLANT'S INDUSTRIAL ACTIVITIES, SUCH AS OFFICE BUILDINGS AND ACCOMPANYING PARKING LOTS AS LONG AS THE DRAINAGE FROM THE EXCLUDED AREAS IS NOT MIXED WITH STORM WATER DRAINED FROM THE AREAS DESCRIBED IN THIS PARAGRAPH. INDUSTRIAL FACILITIES INCLUDE FACILITIES THAT ARE FEDERALLY, STATE, OR MUNICIPALLY OWNED OR OPERATED THAT MEET THE DESCRIPTION OF THE FACILITIES LISTED IN THE FOLLOWING PARAGRAPHS AND THOSE FACILITIES DESIGNATED BY THE DIRECTOR UNDER THE PROVISIONS OF R 323.2161(1)(f). THE FOLLOWING CATEGORIES OF FACILITIES ARE CONSIDERED TO BE ENGAGING IN "INDUSTRIAL ACTIVITY" FOR PURPOSES OF THIS SUBDIVISION:

(i) FACILITIES SUBJECT TO EPA PROMULGATED STORM WATER EFFLUENT LIMITATIONS GUIDELINES, NEW SOURCE PERFORMANCE STANDARDS, OR TOXIC POLLUTANT EFFLUENT STANDARDS, EXCEPT FACILITIES THAT HAVE TOXIC POLLUTANT EFFLUENT STANDARDS WHICH ARE EXEMPTED UNDER PARAGRAPH (x) OF THIS SUBDIVISION.

(ii) FACILITIES CLASSIFIED AS STANDARD INDUSTRIAL CLASSIFICATIONS 24, EXCEPT 2434, 26, EXCEPT 265 AND 267, 28, EXCEPT 283, 29, 311, 32, EXCEPT 323, 33, 3441, 373.

(iii) FACILITIES CLASSIFIED AS STANDARD INDUSTRIAL CLASSIFICATIONS 10 THROUGH 14, MINERAL INDUSTRY, INCLUDING ACTIVE OR INACTIVE MINING OPERATIONS, EXCEPT FOR AREAS OF NON-COAL MINING OPERATIONS WHICH WERE RELEASED FROM APPLICABLE STATE OR FEDERAL RECLAMATION REQUIREMENTS AFTER DECEMBER 17, 1990, AND OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, OR TREATMENT OPERATIONS, OR TRANSMISSION FACILITIES THAT DISCHARGE STORM WATER CONTAMINATED BY CONTACT WITH OR THAT HAS COME INTO CONTACT WITH, ANY OVERBURDEN, RAW MATERIAL, INTERMEDIATE PRODUCTS, FINISHED PRODUCTS, BYPRODUCTS, OR WASTE PRODUCTS LOCATED ON THE SITE OF OPERATIONS. INACTIVE

MINING OPERATIONS ARE MINING SITES WHICH ARE NOT BEING ACTIVELY MINED, BUT WHICH HAVE AN IDENTIFIABLE OWNER/OPERATOR. INACTIVE MINING SITES DO NOT INCLUDE SITES WHERE MINING CLAIMS ARE BEING MAINTAINED BEFORE DISTURBANCES ASSOCIATED WITH THE EXTRACTION, BENEFICIATION, OR PROCESSING OF MINED MATERIALS AND DO NOT INCLUDE SITES WHERE MINIMAL ACTIVITIES ARE UNDERTAKEN FOR THE SOLE PURPOSE OF MAINTAINING A MINING CLAIM.

(iv) HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES, INCLUDING THOSE THAT ARE OPERATING UNDER INTERIM STATUS OR A PERMIT UNDER SUBTITLE C OF THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT.

(v) LANDFILLS, LAND APPLICATION SITES, AND OPEN DUMPS THAT RECEIVE OR HAVE RECEIVED ANY INDUSTRIAL WASTES, WASTE THAT IS RECEIVED FROM ANY OF THE FACILITIES DESCRIBED UNDER THIS SUBDIVISION, INCLUDING THOSE THAT ARE SUBJECT TO REGULATION UNDER SUBTITLE D OF THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT.

(vi) FACILITIES INVOLVED IN THE RECYCLING OF MATERIALS, INCLUDING METAL SCRAPYARDS, BATTERY RECLAIMERS, SALVAGE YARDS, AND AUTOMOBILE JUNKYARDS, WHICH ARE CLASSIFIED AS STANDARD INDUSTRIAL CLASSIFICATION 5015 AND 5093.

(vii) STEAM ELECTRIC POWER GENERATING FACILITIES, INCLUDING COAL HANDLING SITES.

(viii) TRANSPORTATION FACILITIES CLASSIFIED AS STANDARD INDUSTRIAL CLASSIFICATIONS 40, 41, 42, EXCEPT 4221 TO 25, 43, 44, 45, AND 5171 WHICH HAVE VEHICLE MAINTENANCE SHOPS, EQUIPMENT CLEANING OPERATIONS, OR AIRPORT DEICING OPERATIONS. ONLY THOSE PORTIONS OF THE FACILITY THAT ARE EITHER INVOLVED IN VEHICLE MAINTENANCE, INCLUDING VEHICLE REHABILITATION, MECHANICAL REPAIRS, PAINTING, FUELING, AND LUBRICATION; EQUIPMENT CLEANING OPERATIONS, AIRPORT DEICING OPERATIONS, OR WHICH ARE OTHERWISE IDENTIFIED UNDER PARAGRAPHS (i) TO (vii), (ix) OR (x) OF THIS SUBDIVISION ARE ASSOCIATED WITH INDUSTRIAL ACTIVITY.

(ix) TREATMENT WORKS TREATING DOMESTIC SEWAGE OR ANY OTHER SEWAGE SLUDGE OR WASTEWATER TREATMENT DEVICE OR SYSTEM, USED IN THE STORAGE TREATMENT, RECYCLING, AND RECLAMATION OF MUNICIPAL OR DOMESTIC SEWAGE, INCLUDING LAND DEDICATED TO THE DISPOSAL OF SEWAGE SLUDGE THAT IS LOCATED WITHIN THE CONFINES OF THE FACILITY, PROVIDED THE SYSTEM HAS A DESIGN FLOW OF 1.0 MILLION GALLONS PER DAY OR MORE, OR IS REQUIRED TO HAVE AN APPROVED FEDERAL PRETREATMENT PROGRAM UNDER 40 C.F.R. PART 403 (2000). NOT INCLUDED ARE FARM LANDS, DOMESTIC GARDENS OR LANDS USED FOR SLUDGE MANAGEMENT WHERE SLUDGE IS BENEFICIALLY REUSED AND WHICH ARE NOT PHYSICALLY LOCATED IN THE CONFINES OF THE FACILITY, OR AREAS THAT ARE IN COMPLIANCE WITH SECTION 405 OF THE FEDERAL ACT.

(x) FACILITIES UNDER STANDARD INDUSTRIAL CLASSIFICATIONS 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31, EXCEPT 311, 323, 34, EXCEPT 3441, 35, 36, 37, EXCEPT 373, 38, 39, AND 4221 TO 25.

(T) “TOTAL MAXIMUM DAILY LOAD” OR “TMDL” MEANS A WRITTEN, QUANTITATIVE PLAN AND ANALYSIS FOR ATTAINING AND MAINTAINING WATER QUALITY STANDARDS IN ALL SEASONS FOR A SPECIFIC WATERBODY AND POLLUTANT.

(øU) “Trade secret” means the whole or any portion or phase of any manufacturing proprietary process or method which is not patented, which is secret, which is useful in compounding an article of trade that has a commercial value, and the secrecy of which the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. “Trade secret” shall not be construed, for purposes of these rules, to include any information relative to the quantum and character of waste products or their constituents discharged or sought to be discharged into waters of this state.

(V) “URBANIZED AREA” MEANS A PLACE AND THE ADJACENT DENSELY POPULATED TERRITORY (CENSUS BLOCKS OF 1,000 PERSONS OR MORE PER SQUARE MILE) THAT TOGETHER HAVE A MINIMUM POPULATION OF 50,000 PEOPLE, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AND AS DETERMINED BY THE LATEST AVAILABLE DECENNIAL CENSUS.

(W) “URBANIZING AREA” MEANS AN AREA OF CONTIGUOUS CENSUS BLOCKS WITH POPULATION DENSITIES OF 1,000 PERSONS OR MORE PER SQUARE MILE THAT TOGETHER HAVE A POPULATION OF 10,000 PEOPLE OR MORE, AS DETERMINED BY THE LATEST AVAILABLE DECENNIAL CENSUS.

(þX) “Vessel” means any contrivance that is used or capable of being used for navigation upon water, whether or not the contrivance is capable of self-propulsion, including any of the following:

- (i) Foreign and domestic vessels that are engaged in commerce upon the waters of the state.
- (ii) Passenger or other cargo-carrying vessels.
- (iii) Privately owned recreational watercraft.
- (iv) Any other floating craft.

(ǵY) “Waste” means any waste, wastewater, waste effluent, or pollutant that is discharged into water, including any of the following:

- (i) Dredged spoil.
- (ii) Solid waste.
- (iii) Incinerator residue.
- (iv) Sewage.
- (v) Garbage.
- (vi) Sewage sludge.
- (vii) Munitions.
- (viii) Chemical wastes.
- (ix) Biological materials.
- (x) Radioactive materials.
- (xi) Heat.
- (xii) Wrecked or discarded equipment.
- (xiii) Rock.
- (xiv) Sand.
- (xv) Cellar dirt.

(xvi) Industrial, municipal, and agricultural waste.

(ǵZ) “Wastewater” means liquid waste discharges directly or indirectly into the waters of the state that result from industrial and commercial processes and municipal operations, including liquid or water-carried process waste, cooling and condensing waters, and sanitary sewage.

R 323.2106 Permit requirements of dischargers.

~~Rule 1106~~ 2106. (1) A person discharging wastes into the surface or groundwaters of the state or on the ground as a point source discharge, whether or not in compliance with an outstanding order of determination, final order of determination, or stipulation with the ~~commission~~ DEPARTMENT, shall promptly make application for and obtain from the ~~commission~~ DEPARTMENT a valid national or state permit pursuant to section 7 3112 or 8 3113 of ~~the commission act~~ PART 31 OF THE ACT and according to procedures and deadlines set forth in these rules.

(2) A person proposing a waste or wastewater discharge to the surface or groundwaters of the state shall apply ~~at least~~ NOT LESS THAN 180 days ~~prior to~~ BEFORE commencement of the discharge or any other time period before commencement of the discharge as determined and required by the ~~commission~~ DEPARTMENT, for a national or state permit on an appropriate application form supplied by OR APPROVED BY the ~~commission~~ DEPARTMENT.

(3) A person discharging wastes into surface waters of the state shall apply to the ~~commission~~ DEPARTMENT for a national permit. A person discharging wastes on the ground or into groundwaters shall apply to the ~~commission~~ DEPARTMENT for a state permit. The procedures, forms, and deadlines required by these rules shall apply to applications for either national or state permits.

R 323.2108 Permits; application and filing procedures.

~~Rule 1108~~ 2108. (1) An application for a permit shall be completed in accordance with and subject to guidelines promulgated by the administrator of EPA, entitled “National Pollutant Discharge Elimination System; Proposed Forms and Guidelines for Acquisition of Information From Owners and Operators of Point Sources,” as published in 40 C.F.R. §126, 122.21 (2000), and any subsequent revisions, additions, or modifications thereto, adopted by the ~~commission~~ DEPARTMENT for purposes of administering these rules.

(2) A person discharging waste or wastewater from more than 1 location shall file a separate application for each discharge location. A single application may be filed for multiple outfalls discharging from a single location, except that the discharge from each outfall shall be described separately in the application.

R 323.2109 Permits; application exemptions.

Rule 2109. A person who discharges or proposes to discharge the following types of waste or wastewater shall not be required to apply for a permit from the ~~commission~~ DEPARTMENT pursuant to ~~the commission act~~ PART 31 OF THE ACT or these rules:

(a) Human sewage that is discharged from vessels.

(b) Water, gas, and other materials that are injected into a well to facilitate the production of oil or gas, or water that is derived in association with oil or gas production and disposed of in a well if authorized by the state supervisor of wells.

(c) A discharge that is directed solely to a publicly owned treatment works, but not from a publicly owned treatment works.

(d) Point source discharges of storm water, unless a person is required to apply for a national permit pursuant to ~~the provisions of section 402(p) of the federal act or is required to apply for a national permit because a particular storm water discharge has been identified by the commission DEPARTMENT or the regional administrator as a significant contributor to pollution~~ R 323.2161.

R 323.2111 Refuse act permits; validity; additional requirements Rescinded.

~~Rule 1111. A person who has filed an application for a refuse act permit prior to the date of enactment of the federal act is not required to file an application for a national or state permit pursuant to the commission act or these rules, unless otherwise determined necessary by the commission. A complete refuse act permit application~~

~~may be deemed by the commission as meeting the requirements of the commission act and these rules and a permit may be issued based thereon unless additional information is required as prescribed in R 323.2112.~~

R 323.2112 Permit applications; ~~transmittal~~; deficiencies; additional data requirements.

~~Rule 4112 2112. (1) Upon receipt of an application from a discharger for a national permit, the executive secretary shall transmit a copy thereof and any other applicable related NPDES forms to the regional administrator for his review and comment. Timely written comments thereon submitted to the commission by the regional administrator outlining any deficiencies or other changes he deems necessary to complete the national permit application or an incomplete refuse act permit application, shall be considered by the commission.~~

~~(2) If the commission has not received written comment on an application for a national permit from the regional administrator within 90 days after transmittal thereto by the executive secretary, the commission shall assume that the regional administrator has no comment thereon and may direct the executive secretary to proceed with the processing of the application. A national permit shall not be issued by the commission to an applicant until comment is received from the regional administrator or until the expiration of the 90 days.~~

~~(31) The executive secretary DEPARTMENT, at his ITS discretion or upon request of the regional administrator, may request of an applicant any additional information deemed necessary to complete or correct deficiencies in the application or to complete or correct deficiencies in a refuse act permit application, before processing the application or issuing or denying the issuance of a permit. A national permit or state permit shall not be issued by the commission DEPARTMENT until an application therefor is complete or any further information requested by the executive secretary DEPARTMENT is supplied.~~

~~(42) The commission DEPARTMENT shall take proper enforcement action as prescribed by the commission act PART 31 OF THE ACT against any person who fails to file a complete application, if deficiencies are not corrected or incomplete information is not supplied within 60 days to the executive secretary DEPARTMENT following his ITS request by the applicant.~~

R 323.2114 Permit applications and other NPDES forms; valid signatories.

~~Rule 4114 2114. A state or national permit application form or any other NPDES form submitted to the executive secretary DEPARTMENT pursuant to these rules shall be signed as follows:~~

~~(4A) For a corporation, by a principal executive officer of at least the level of vice president, or his OR HER designated representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the permit application or other NPDES form originates.~~

~~(2B) For a partnership, by a general partner.~~

~~(3C) For a sole proprietorship, by the proprietor.~~

~~(4D) For a municipal, state, or other public facility, by either a principal executive officer, the mayor, village president, city, or village manager or other duly authorized employee.~~

R 323.2115 Permits; tentative determinations and draft permits.

~~Rule 4115 2115. (1) Prior to BEFORE public notice pursuant to R 323.2117 of a national or state permit application or a refuse act permit application and when the executive secretary DEPARTMENT is satisfied that the application is complete, the staff of the commission DEPARTMENT shall make preliminary determinations on the application, including a proposed determination to issue or deny a state or national permit for the discharge described in the application.~~

~~(2) If the proposed determination is to issue a state or national permit, THEN ALL OF the following additional tentative determinations shall be made:~~

- (a) Proposed effluent limitations shall be identified for the constituents proposed to be limited.
- (b) A proposed schedule of compliance for meeting the proposed effluent limitations, including interim dates and requirements, if applicable.
- (c) A description of any other proposed restrictions or other conditions determined necessary by the ~~commission~~ DEPARTMENT which will significantly affect the discharge described in the application, including pretreatment standards for discharges into publicly owned treatment works.
- (3) The ~~executive-secretary~~ DEPARTMENT shall prepare a draft permit based upon the tentative determinations made pursuant to subrules (1) and (2) OF THIS RULE for the national or state permit application. ~~or the refuse act application.~~ The draft permit shall be mailed to the applicant and, in the case of a national permit, to the regional administrator before public notice of the application.

R 323.2117 Public notice of permit application and preliminary determinations.

Rule ~~4447~~ 2117. (1) The ~~executive-secretary~~ DEPARTMENT shall prepare and sign a public notice of an application for a national permit, or a state permit as deemed appropriate by the ~~commission~~ DEPARTMENT, and of the proposed determination to issue or deny a permit for the proposed or existing discharge identified in the application. The notice shall be circulated within the geographical area of the proposed or existing discharge in 1 or more of the following ways:

- (a) Posting of the notice in the post office or other public buildings of the municipality nearest the premises of the applicant in which the discharge is or will be located.
- (b) Posting of the notice at the entrance to the applicant's premises or nearby.
- (c) Publishing the notice in 1 or more newspapers of general circulation in the area of the applicant, or if appropriate, in an applicable periodical.
- (2) A copy of the notice shall be transmitted to the permit applicant and shall be available at the ~~commission~~ DEPARTMENT office in Lansing and at the ~~commission~~ DEPARTMENT district office nearest to the geographical location of the applicant. Any person may MAKE A WRITTEN request ~~in writing~~ FOR a copy of the notice which will be mailed to him OR HER.

R 323.2118 Public notice; contents and information.

Rule ~~4448~~ 2118. A public notice of a state or national permit application shall contain ALL OF THE FOLLOWING INFORMATION:

- (a) The date of posting or publication of the public notice.
- (b) The address and telephone number of the ~~commission~~ DEPARTMENT office in Lansing and the ~~commission~~ DEPARTMENT district office nearest to the geographical location of the applicant.
- (c) The name and address of the applicant.
- (d) A concise description of the applicant's activities and operations which result in the discharge identified in the permit application.
- (e) The name of the waterway to which the discharge is made or is proposed to be made, including the location of the proposed or existing discharge identified in the application.
- (f) A statement of the ~~commission's~~ DEPARTMENT'S tentative determination to issue or deny the permit for the discharge identified in the application.
- (g) A concise description of the procedures for the formulation of final determinations including information on the comment period prescribed in R 323.2119 or other means by which interested persons may comment on the tentative determinations.
- (h) The address and telephone number of the ~~commission~~ DEPARTMENT office where more information on the application may be obtained or where copies of the draft permit prepared pursuant to R 323.2115, and fact

sheets may be obtained and any other applicable NPDES forms and related documents may be inspected or copied.

R 323.2119 Public notice; comment period for interested persons.

Rule ~~4449~~ 2119. (1) Up to 30 days following the date of posting or publication of the public notice pursuant to R 323.2117, an interested person may submit his OR HER views in writing on the application or ~~commission~~ DEPARTMENT tentative determinations, or both, to the ~~commission~~ DEPARTMENT. The time for public comment may be extended by the ~~executive secretary~~ DEPARTMENT if ~~he~~ IT determines that an extension of time is necessary to facilitate additional public comment.

(2) All views submitted to the ~~commission~~ DEPARTMENT in writing by interested persons during the comment period shall be retained and considered in the formulation of final determinations by the ~~commission~~ DEPARTMENT on the permit application.

R 323.2121 Fact sheets on permit applications.

Rule ~~4424~~ 2121. (1) For each state or national permit application which identifies an existing or proposed discharge of 500,000 gallons or more for any day of the year, the ~~executive secretary~~ DEPARTMENT shall prepare and make available a fact sheet with respect to the application described in the public notice, which shall contain information prescribed by R 323.2122.

(2) The ~~executive secretary~~ DEPARTMENT may prepare a fact sheet for any existing or proposed discharge identified in an application of less than 500,000 gallons for any day of the year, if ~~he~~ IT deems the discharge is of significant importance to warrant additional information for public comment.

(3) A copy of the fact sheet shall be available at the ~~commission~~ DEPARTMENT office in Lansing and at the ~~commission~~ DEPARTMENT district office nearest to the geographical location of the applicant. Any person may request in writing a copy of the fact sheet which will be mailed to him OR HER.

R 323.2122 Fact sheets on permit applications; contents and information.

Rule 2122. The fact sheet prepared pursuant to R 323.2121 shall contain, but is not limited to, ALL OF the following information:

(a) A sketch or detailed description of the location of the existing or proposed discharge described in the permit application.

(b) A quantitative description of the existing or proposed discharge including, but not limited to, ALL OF THE FOLLOWING INFORMATION:

(i) its rate or frequency or average daily flow;

(ii) its summer and winter temperatures in degrees Fahrenheit and mixing zone information;

(iii) if the discharge is a thermal discharge subject to limitation under the federal act;

(iv) its average daily discharge in pounds per day of any pollutants or other constituents subject to limitation under ~~the commission act~~ PART 31 OF THE ACT or the federal act or rules or regulations promulgated thereunder.

(c) The preliminary determinations made by the ~~commission~~ DEPARTMENT on the permit application pursuant to R 323.2115.

(d) A concise citation of water quality standards, effluent limitations and standards and mixing zones, if applicable, to be applied to the discharge, and the uses for which the receiving waters have been classified.

(e) A complete description of the procedures used by the ~~commission~~ DEPARTMENT to formulate final determinations on the application and existing or proposed discharges including the 30-day comment period on the public notice, procedures for requesting a public hearing on the application pursuant to R 323.2130 and

other procedures to facilitate public comment and participation in the formulation of final determinations by the ~~commission~~ DEPARTMENT.

R 323.2124 Public notices and fact sheets; mailing lists.

Rule ~~4124~~ 2124. (1) An interested person who desires to receive copies of all public notices or fact sheets, or both, on state or national permit applications for discharges in a geographical drainage area of the state as identified in subrule (2) OF THIS RULE, may request that his OR HER name be placed on a permanent mailing list of the ~~commission~~ DEPARTMENT for the information. The request shall be made in writing to the ~~commission~~ DEPARTMENT office in Lansing and shall be renewed in December of each year. Failure to renew the request is just cause for the ~~commission~~ DEPARTMENT to remove a name from the mailing list.

(2) The written request of an interested person to the ~~commission~~ DEPARTMENT shall clearly identify the name of the person, the person's address, the documents desired, and the geographical drainage area of the state for which information is requested. A separate request shall be made for each of the following geographical drainage areas of the state:

- (a) Lake Michigan and tributaries thereto, entire.
- (b) Lake Michigan and tributaries thereto, Upper Peninsula.
- (c) Lake Michigan and tributaries thereto, Lower Peninsula.
- (d) Lake Superior and tributaries thereto.
- (e) Lake Huron and tributaries thereto.
- (f) Lake Erie and tributaries thereto.
- (g) St. Mary's river.
- (h) Detroit river, Lake St. Clair, and St. Clair river and tributaries thereto.

R 323.2125 Public notices and fact sheets; notice to other governmental agencies.

Rule ~~4125~~ 2125. (1) Upon receipt of an application for a national permit which identifies an existing or proposed discharge into interstate waters and when the ~~executive-secretary~~ DEPARTMENT determines that the discharge may affect the quality of the waters of any other state, ~~he~~ IT shall notify the appropriate state or interstate agency of the discharge and shall transmit a copy of the public notice and fact sheet on the application thereto. Upon request of the state or interstate agency, the ~~executive-secretary~~ DEPARTMENT shall also transmit a copy of the application and the draft permit prepared pursuant to R 323.2115.

(2) A state or interstate agency notified by the ~~executive-secretary~~ DEPARTMENT pursuant to subrule (1) OF THIS RULE shall have 45 days in which to comment on the existing or proposed discharge and may submit in writing to the ~~commission~~ DEPARTMENT and the regional administrator its views and recommendations. The views and recommendations submitted to the ~~commission~~ DEPARTMENT by another state or interstate agency may be incorporated into the national permit if determined necessary and desirable by the ~~commission~~ DEPARTMENT. If not incorporated into the national permit, the ~~commission~~ DEPARTMENT shall notify the state or interstate agency in writing and provide AN opportunity for hearing, if requested by the state or interstate agency.

(3) When a public notice on a national permit application for discharges into navigable waters is posted or published, the ~~executive-secretary~~ DEPARTMENT shall transmit a copy of the notice and fact sheet thereon to the appropriate district engineer of the United States army corps of engineers for existing or proposed discharges identified therein, if such discharges are not minor discharges.

(4) If requested in writing thereby, the ~~executive-secretary~~ DEPARTMENT shall mail a copy of a public notice or fact sheet, or both, for an application for a national or state permit, to any other federal, state, or local agency or affected Canadian provincial or federal agencies. The provisions of subrule (2) OF THIS RULE with regard

to opportunity for comment and hearings apply to the federal, state or local agencies or Canadian provincial or federal agencies.

R 323.2126 ~~Permit applications; notice to state public health department.~~ Rescinded.

~~Rule 1126. The executive secretary DEPARTMENT shall transmit to the director of the state department of public health copies of draft permits and fact sheets for state or national permit applications and shall provide, by agreement, opportunity for review and comment thereon to assure compliance of the applicant with applicable health requirements.~~

R 323.2127 Public access to NPDES forms and ~~commission~~ DEPARTMENT files and records.

~~Rule 1127~~ 2127. A copy of a state or national permit application, public notice, fact sheet, draft permit, and other NPDES forms relating thereto, including written public comment thereon and other reports, files, and information relating to the application not classified as confidential information by the ~~executive secretary~~ DEPARTMENT pursuant to R 323.2128, shall be available for public inspection and copying during normal business hours at the ~~commission~~ DEPARTMENT office in Lansing and an appropriate district office of the ~~commission~~ DEPARTMENT in the geographical area of the applicant. Document inspection and copying procedures shall be according to R 323.1015.

R 323.2128 Confidential information.

~~Rule 1128~~ 2128. Upon determination by the ~~commission~~ DEPARTMENT that public disclosure of information contained on any NPDES form, except information concerning effluent data or information from the files and records of the ~~commission~~ DEPARTMENT not otherwise entitled to protection against disclosure by previous action of the ~~commission~~ DEPARTMENT or of EPA, would divulge information entitled to protection as trade secrets of the applicant, the ~~commission~~ DEPARTMENT shall label and otherwise handle the information as confidential and shall notify and forward the information to the regional administrator. In making its determination of entitlement to protection as a trade secret, the ~~commission~~ DEPARTMENT shall consider evidence submitted by the applicant. ~~In the event of denial by the~~ IF THE ~~commission~~ DEPARTMENT DENIES ~~of~~ entitlement to protection as a trade secret, the applicant, upon notification thereof, shall have 30 days in which to appeal the decision to the ~~commission~~ DEPARTMENT. If the ~~commission~~ DEPARTMENT determines, following appeal, that the information is not entitled to trade secret status, THEN the ~~commission~~ DEPARTMENT, not less than 30 days after the applicant is notified of the decision, shall release the information for inspection or copying pursuant to R 323.2127. Where EPA has previously accorded trade secret status to information of an applicant, the ~~commission~~ DEPARTMENT shall accept that finding as entitlement to trade secret status for the purpose of this rule. Unless otherwise determined by the regional administrator or the ~~executive secretary~~ DEPARTMENT, all information labeled by the ~~commission~~ DEPARTMENT as confidential shall not be available to the public for inspection or copying pursuant to R 323.2127, except that the information shall be made available at any time to the regional administrator or other authorized representative of the United States concerned with carrying out ~~the commission act~~ PART 31 OF THE ACT or the federal act, upon written request therefor.

R 323.2130 Permit applications; public hearings, determinations, and scheduling.

~~Rule 1130~~ 2130. (1) Within the 30-day comment period or other applicable comment period provided after posting or publishing of a public notice pursuant to R 323.2119, an applicant, any affected state or state or interstate agency or country, the regional administrator, or any other interested person or agency may file a petition with the ~~commission~~ DEPARTMENT for a public hearing on an application for a state or national

permit. A petition for a public hearing shall indicate the reasons why a hearing is requested, the interest in or relationship of the petitioner to the application or existing or proposed discharge identified therein and specifically indicate which portions of the application or other NPDES form or information constitutes necessity for a public hearing. If the ~~commission~~ DEPARTMENT determines that a petition constitutes sufficient cause or that there is sufficient public interest in an application for a public hearing, it may direct the scheduling of a hearing thereon.

(2) A hearing shall be scheduled not less than 4 WEEKS nor more than 8 weeks after the ~~commission~~ DEPARTMENT determines the necessity of the hearing in the geographical location of the applicant or, at the discretion of the ~~executive secretary~~ DEPARTMENT, at another appropriate location, and shall be noticed ~~at least~~ NOT LESS THAN 30 days before the hearing in the same manner as the public notice on an application pursuant to R 323.2117 and R 323.2118. The notice of public hearing shall be transmitted to the applicant and shall be published in at least 1 newspaper of general circulation in the geographical area of the existing or proposed discharge identified on the permit application, and shall be mailed to any person or group upon request therefor. Notice shall be mailed to all persons and governmental agencies which received a copy of the notice or the fact sheet for the permit application.

(3) The ~~commission~~ DEPARTMENT may hold a single public hearing on related groups of permit applications.

R 323.2131 Permit applications; public hearing notice; contents.

Rule ~~4434~~ 2131. A notice by the ~~commission~~ DEPARTMENT of a public hearing on an application shall contain, in addition to the time and place of the hearing, ALL OF THE FOLLOWING INFORMATION:

- (a) The address and telephone number of the ~~commission~~ DEPARTMENT office in Lansing and the appropriate district office of the ~~commission~~ DEPARTMENT.
- (b) The name and address of the applicant whose application will be considered at the public hearing.
- (c) The name of the waterway to which a discharge, as identified on the application, is or will be made and a concise description of the location on the waterway of the discharge.
- (d) Reference to the public notice posted and published for the application, including the identification numbers and dates of issuance thereof.
- (e) A brief statement of the purpose of the public hearing.
- (f) A concise description of the issues which have been identified by the petitioners requesting the public hearing.
- (g) The address or addresses of ~~commission~~ DEPARTMENT offices where interested persons may inspect or obtain copies of a draft permit, fact sheet, or other applicable NPDES forms or other reports, files, or information relating to an application subject to public hearing, ~~which has~~ IF THE DOCUMENTS HAVE not been labeled confidential by the ~~executive secretary~~ DEPARTMENT pursuant to R 323.2128.
- (h) A concise description of the nature of the public hearing and the issues to be heard, with reference to ~~commission~~ DEPARTMENT rules and procedures to be followed.

R 323.2133 Permit applications; determinations; issuance; denial.

Rule ~~4433~~ 2133. (1) ~~Following~~ AFTER review of tentative determinations or modifications thereof made by the staff of the ~~commission~~ DEPARTMENT pursuant to R 323.2115, any comments on the permit application received by the ~~commission~~ DEPARTMENT from the regional administrator pursuant to R 323.2112, comments received from the public during the 30-day comment period following public notice of the permit application as provided by R 323.2117, OR other applicable recommendations or determinations and review of the public hearing record after a hearing on an application pursuant to R 323.2130, the ~~commission~~ DEPARTMENT shall make a final determination on the permit application and may issue or deny a state or national permit pursuant to section 5 3106 of the ~~commission act~~. PART 31 OF THE ACT.

(2) An appeal to a final determination of the ~~commission~~ DEPARTMENT made pursuant to subrule (1), OF THIS RULE or to a condition of a permit issued or the denial of a permit pursuant to ~~the commission act~~ PART 31 OF THE ACT and the rules, shall be in accordance with and subject to section 8 3113 of ~~the commission act~~ PART 31 OF THE ACT, ~~and part 3 of the general rules of the commission being R 323.1031 to R 323.1036 of the Michigan Administrative Code.~~

(3) When the ~~commission~~ DEPARTMENT issues a state or national permit to a discharger in possession of an order of determination or stipulation of the ~~commission~~ DEPARTMENT issued or entered into ~~prior to~~ BEFORE April 15, 1973, the state or national permit conditions shall take precedence over all conditions of the order of determination or stipulation. If the ~~commission~~ DEPARTMENT denies the issuance of a state or national permit to a discharger in possession of an order of determination or stipulation of the ~~commission~~ DEPARTMENT, compliance with the conditions of the order of determination or stipulation is not a defense of the discharger's obligation as prescribed by ~~the commission act~~. PART 31 OF THE ACT.

(4) A national permit issued by the ~~commission~~ DEPARTMENT pursuant to ~~the commission act~~ PART 31 OF THE ACT and these rules is a state permit where the permit is issued for waste or wastewater discharges into the surface waters of the state. A state permit issued for a waste or wastewater discharge into groundwaters or on the ground is not a national permit required pursuant to the federal act.

R 323.2134 Permits; transmittal to EPA.

Rule ~~1134~~ 2134. The ~~executive secretary~~ DEPARTMENT shall transmit all copies of national permits issued by the ~~commission~~ DEPARTMENT pursuant to ~~the commission act~~ PART 31 OF THE ACT and these rules to the regional administrator immediately following issuance. If a permit is denied, written notice thereof and the reasons therefor shall be transmitted to the regional administrator.

R 323.2136 Terms and conditions of permits; prohibited discharges.

Rule ~~1136~~ 2136. (1) A permit shall not be issued to a person proposing any of the following discharges:

- (a) A discharge containing a radiological, chemical, or biological warfare agent or a high-level radioactive waste.
- (b) A discharge containing a substance which the ~~commission~~ DEPARTMENT determines would substantially impair anchorage or navigation, or both.
- (c) A point source discharge in conflict with an areawide waste treatment management plan or amendments thereto, prepared by a management agency pursuant to section 208(b) of the federal act, unless the ~~commission~~ DEPARTMENT finds ~~such~~ THE variance necessary to protect the public health, safety, and welfare.

(2) A NPDES permit will not be issued to a person proposing any of the following discharges into waters subject to regulation under the federal act:

- (a) A discharge containing a radiological, chemical, or biological warfare agent or a high-level radioactive waste;
- (b) A discharge containing a substance which, as determined by the secretary of the army acting through the chief of engineers of the United States army corp of engineers, would substantially impair anchorage or navigation, or both;
- (c) A discharge to which the regional administrator objects in writing to the ~~commission~~ DEPARTMENT pursuant to R 323.2112, pursuant to any right to object provided the administrator of EPA in section 402(d) of the federal act; ~~AND~~.
- (d) A point source discharge in conflict with an areawide ~~wastetreatment~~ WASTE TREATMENT management plan, or amendments thereto, prepared by a management agency pursuant to section 208(b) of the federal act unless otherwise approved by EPA.

R 323.2137 Terms and conditions of permits; effluent standards and limitations.

Rule ~~4137~~ 2137. When applicable, a permit issued by the ~~commission~~ DEPARTMENT shall contain terms and conditions deemed necessary by the ~~commission~~ DEPARTMENT to ensure compliance with at least the following effluent standards and limitations:

(a) Effluent limitations for publicly owned treatment works and other point source discharges when promulgated by the administrator of EPA pursuant to sections 301, 302, 307, and 308 of the federal act, in accordance with and subject to the date of compliance prescribed therein, if the limitations are not in conflict with ~~the commission act~~ PART 31 OF THE ACT or the federal act.

(b) Standards of performance, when promulgated by the administrator of EPA, for new sources within the categories defined in section 306 of the federal act.

(c) If the permit is for a discharge from a publicly owned treatment works, standards of performance, pretreatment standards or effluent limitations or prohibitions when promulgated by the administrator of EPA for toxic substances, monitoring and charges pursuant to sections 204(b), 307, and 308 of the federal act, if the standards, limitations, or prohibitions are not in conflict with ~~the commission act~~ PART 31 OF THE ACT or the federal act.

(d) Any other more stringent limitation deemed necessary by the ~~commission~~ DEPARTMENT to meet applicable water quality standards, treatment standards, or schedules of compliance established pursuant to ~~the commission act~~ PART 31 OF THE ACT or rules promulgated pursuant thereto, or necessary to meet other federal law or regulation enacted or promulgated subsequent to these rules, or required to meet any applicable water quality standards, including applicable requirements necessary to meet maximum daily loads established by and incorporated into the state's continuing planning process required pursuant to section 303 of the federal act.

R 323.2138 Terms and conditions of permits; consistency with water quality standards.

Rule ~~4138~~ 2138. When a state or national permit is issued by the ~~commission~~ DEPARTMENT which contains any effluent standards or limitations set forth in R 323.2137, the ~~commission~~ DEPARTMENT shall verify that the discharge authorized by the issued permit will not violate applicable water quality standards. When a permit contains additional effluent limitations based upon applicable water quality standards, the ~~commission~~ DEPARTMENT shall prepare a wasteload allocation ensuring that the discharge authorized by the issued permit is consistent with applicable water quality standards.

R 323.2139 Terms and conditions of permits; requirements to comply with plans.

Rule ~~4139~~ 2139. The ~~commission~~ DEPARTMENT, if it deems necessary, may impose any further requirements under the terms and conditions of a state or national permit to comply with an area wide waste treatment management plan, or amendments thereto, prepared by a management agency pursuant to section 208(b) of the federal act.

R 323.2140 Terms and conditions of permits; interim requirements.

Rule ~~4140~~ 2140. ~~Prior to~~ BEFORE promulgation of regulations by the administrator of EPA relating to applicable effluent standards or limitations or standards of performance set forth in R 323.2137, the ~~commission~~ DEPARTMENT may impose any standard, limitation, or condition within a state or federal permit to ensure compliance with ~~the commission act~~ PART 31 OF THE ACT and the federal act.

R 323.2141 Terms and conditions of permits; discharges from vessels.

Rule ~~1141~~ 2141. (1) If a national permit is issued pursuant to ~~the commission act~~ PART 31 OF THE ACT and these rules for the discharge of wastes from a vessel other than human sewage exempted by R 323.2109, the permit shall contain requirements in accordance with and subject to the applicable regulations promulgated by the secretary of the federal department in which the United States coast guard is operating, which establish specifications for transportation, handling, carriage, storage, and stowage of such wastes.

(2) The ~~commission~~ DEPARTMENT shall issue a national permit for the discharge of wastes from a vessel only when the permit is in conformance with ~~Act No. 167 of the Public Acts of 1970, being §§323.331 to 323.342 of the Michigan Compiled Laws.~~ PART 95 OF THE ACT.

R 323.2142 Terms and conditions of permits; other limitations and requirements.

Rule ~~1142~~ 2142. When issuing a state or national permit pursuant to ~~the commission act~~ PART 31 OF THE ACT and these rules, the ~~commission~~ DEPARTMENT shall specify therein, where applicable, average and maximum daily quantitative limitations for the level of wastewater constituents in terms of weight and, if appropriate, average or maximum concentration limits for the wastes in the discharge authorized by the issued permit.

R 323.2145 Terms and conditions of permits; schedules of compliance.

Rule ~~1145~~ 2145. (1) A person issued a state or national permit by the ~~commission~~ DEPARTMENT pursuant to R 323.2133 who is not in compliance with applicable effluent standards and limitations or other requirements conditioned therein at the time the permit is issued, shall ~~be required to~~ achieve compliance within a period of time as set forth by the ~~commission~~ DEPARTMENT, with effluent standards and limitations, with water quality standards, or with specific requirements or conditions set by the ~~commission~~ DEPARTMENT. The ~~commission~~ DEPARTMENT shall require compliance with terms and conditions of the permit in the shortest reasonable period of time as determined thereby or within a time schedule for compliance which shall be specified in the issued permit.

(2) If a time schedule for compliance specified in a state or national permit which is established by the ~~commission~~ DEPARTMENT pursuant to subrule (1) OF THIS RULE ~~exceeds~~ IS MORE THAN 9 months, THEN the time schedule shall provide for interim dates of achievement for compliance with certain applicable terms and conditions of the permit. Each interim date specified in the permit shall not ~~exceed~~ BE MORE THAN 9 months and, to the extent practicable, shall fall on March 31, June 30, September 30, or December 31.

R 323.2146 Terms and conditions of permits; compliance reports by dischargers.

Rule ~~1146~~ 2146. Within 14 days after an interim date of compliance or the final date of compliance specified in a state or national permit, a permittee shall provide the ~~commission~~ DEPARTMENT with written notice of his OR HER compliance or noncompliance with the requirements or conditions specified to be completed by that date. Failure to submit the written notice to the ~~commission~~ DEPARTMENT is just cause for the ~~commission~~ DEPARTMENT to pursue enforcement action against the discharger pursuant to ~~the commission act~~ PART 31 OF THE ACT or these rules.

R 323.2147 Noncompliance lists.

Rule ~~1147~~ 2147. (1) The ~~executive secretary~~ DEPARTMENT shall prepare and submit to the regional administrator, on or before February 28, May 31, August 31, and November 30, a list of all dischargers holding national permits which, as of 30 days ~~prior to~~ BEFORE the date of the report, have submitted a report to the ~~commission~~ DEPARTMENT pursuant to R 323.2146 showing noncompliance with requirements set forth by the ~~commission~~ DEPARTMENT to be met on interim dates or on the final date of compliance specified in the

permit and those which have not filed a timely report. The noncompliance list shall be available to the public at appropriate ~~commission~~ DEPARTMENT offices for inspection and copying and shall contain ALL OF the following information:

- (a) The name and address of each noncomplying permittee.
 - (b) A concise description of the nature of noncompliance.
 - (c) A description of proposed actions to be taken by the ~~commission~~ DEPARTMENT or the permittee to correct the noncompliance.
 - (d) Any other information deemed necessary by the ~~executive secretary~~ DEPARTMENT to explain or mitigate an instance of noncompliance.
- (2) A discharger who fails or refuses to comply with an interim or final date of compliance specified in a state or national permit, may be deemed by the ~~commission~~ DEPARTMENT to be in violation of the permit and may be subject to enforcement action prescribed in ~~the commission act~~ PART 31 OF THE ACT or these rules.

R 323.2149 Other terms and conditions of state and national permits.

Rule ~~449~~ 2149. (1) As part of the condition for issuing a state or national permit by the ~~commission~~ DEPARTMENT pursuant to these rules, A DISCHARGER SHALL ASSURE the ~~commission~~ DEPARTMENT ~~shall be assured that~~ OF ALL OF THE FOLLOWING:

- (a) All discharges authorized by the permit are consistent with the terms and conditions of the permit and that the permittee will make all reasonable effort to meet any interim or final dates of compliance specified ~~therein~~ IN THE PERMIT.
 - (b) Any facility expansion, production increases, process modifications, changes in discharge volume or other changes in operations or conditions of the permittee which may result in a new or increased discharge of waste or wastewater shall be reported to the ~~commission~~ DEPARTMENT by submission of a new application for a state or national permit pursuant to R 323.2108, or if the discharge does not violate effluent limitations specified in the permit, by submission to the ~~executive secretary~~ DEPARTMENT a notice of a new or increased discharge.
 - (c) The permittee shall allow any authorized ~~commission~~ DEPARTMENT representative to enter upon the permittee's premises at any reasonable time, upon presentation of credentials, to have access to and copy any applicable records, to inspect process facilities, treatment works, monitoring methods or equipment therefor or to sample any effluent of a discharge authorized by a permit.
 - (d) At all times the permittee shall maintain in good working order and operate as efficiently as possible any facilities or systems of control installed to achieve compliance with the terms and conditions of a permit.
- (2) Before the ~~commission~~ DEPARTMENT issues a state or national permit for a discharge from the publicly owned treatment works, it shall secure assurance from the applicant that it will be notified of ALL OF THE FOLLOWING:
- (a) Any new introduction of waste or wastewater constituents into the treatment works from a source which would be a new source as defined in section 306 of the federal act if the source were discharging wastewater constituents.
 - (b) Except as to categories and classes of point sources or discharges specified by the ~~executive secretary~~ DEPARTMENT, any new introduction of waste or wastewater constituents into the treatment works from a source which would be subject to section 301 of the federal act if the source were discharging waste or wastewater constituents.
 - (c) Any substantial change in volume or character of waste or wastewater constituents being introduced into such treatment works by a source discharging wastewater into the treatment works at the time of issuance of a permit.

(3) If a permit is issued by the ~~commission~~ DEPARTMENT for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of the treatment works to comply with the requirements of sections 204(b), 307, and 308 of the federal act. To ensure compliance, ~~the~~ A permittee shall require of each industrial user subject to the requirements of section 307 of the federal act to submit periodic notice over intervals, OF not to exceed MORE THAN 9 months, of progress toward full compliance with section 307 requirements. The permittee shall forward a copy of the periodic notice to the ~~executive secretary~~ DEPARTMENT.

R 323.2150 Duration of permits.

Rule ~~4450~~ 2150. A state or national permit issued pursuant to ~~the commission act~~ PART 31 OF THE ACT and these rules shall have a fixed term which shall not exceed BE MORE THAN 5 years. A person who wishes to continue to discharge waste or wastewater into the surface or groundwaters of the state or on the ground shall apply for reissuance of a permit pursuant to R 323.2151.

R 323.2151 Review and reissuance of state and national permits.

Rule ~~4451~~ 2151. (1) ~~At least~~ NOT LESS THAN 180 days ~~prior to~~ BEFORE the expiration date of a state or national permit issued by the ~~commission~~ DEPARTMENT pursuant to ~~the commission act~~ PART 31 OF THE ACT and these rules, a permittee who wishes to continue the discharge of waste or wastewaters into the surface or groundwaters of the state or on the ground shall submit a written request to the ~~commission~~ DEPARTMENT for reissuance.

(2) After receipt of written request for reissuance of a state or national permit by a permittee, the ~~commission~~ DEPARTMENT shall review the request and before reissuing a permit shall be assured ~~that~~ BY THE PERMITTEE OF ALL OF THE FOLLOWING:

(a) The permittee is in compliance with or has substantially complied with the terms, conditions, requirements, and schedules of compliance of the existing state or national permit.

(b) The ~~commission~~ DEPARTMENT has up-to-date information on the permittee's production levels, waste treatment practices, and the nature, contents, and frequency of the permittee's discharge. The information shall be available to the ~~commission~~ DEPARTMENT either through the submission of new NPDES forms by the permittee or by means of monitoring records or reports submitted thereto pursuant to R 323.2155.

(c) The discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements, including any additions to, or revisions or modifications of, the effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

(3) The ~~commission~~ DEPARTMENT shall follow the public notice and public participation procedures specified in R 323.2117 to R 323.2119 and R 323.2124 to R 323.2127 before any state or national permit is reissued pursuant to this rule.

(4) A copy of a national permit reissued by the ~~commission~~ DEPARTMENT shall be transmitted to the regional administrator with any other appropriate NPDES forms or other applicable information relating thereto.

R 323.2153 Point source discharges; standards of performance.

Rule ~~4453~~ 2153. A facility, building, installation, or industry which discharges a point source discharge subject to a national permit and which is so constructed after October 18, 1972, to meet all applicable effluent standards of performance as required by the federal act, ~~the commission act~~ PART 31 OF THE ACT, or these rules, shall not be subject to any more stringent standard of performance for any wastewater constituent during a 10-year period beginning on the date of completion of construction or during the period of depreciation or

amortization of the facility for the purposes of section 167 or 169, or both, of the internal revenue code of 1954, 26 U.S.C. §167 OR 169, whichever period ends first, unless reallocation of effluent loads are necessitated in a discharge complex to meet water quality standards.

R 323.2154 Monitoring of discharges authorized by permits; requirements.

Rule ~~4454~~ 2154. (1) The ~~commission~~ DEPARTMENT may set forth monitoring requirements of any discharge authorized by a state or national permit issued by it pursuant to these rules. In requiring any discharge monitoring, the ~~commission~~ DEPARTMENT shall specify the type of monitoring required, and the discharger shall obtain approval of the installation, use, and maintenance of monitoring equipment or methods to be employed therefor from the ~~commission~~ DEPARTMENT.

(2) A discharge authorized by a national permit which the regional administrator, by written request to the ~~commission~~ DEPARTMENT, requires to be monitored or which contains toxic waste or wastewater constituents for which an effluent standard or limitation has been established by the administrator of EPA pursuant to section 307(a) of the federal act, shall be monitored by the permittee for any or all of the following:

(a) The flow of the discharge in gallons per day or other volumes required by the ~~commission~~ DEPARTMENT.

(b) Waste or wastewater constituents subject to reduction or elimination under the terms and conditions of the permit.

(c) Specific waste or wastewater constituents which are determined by the ~~executive secretary~~ DEPARTMENT to have a significant effect on the quality of the waters of the state.

(d) Waste or wastewater constituents specified as subject to monitoring by the administrator of EPA in regulations promulgated pursuant to the federal act.

(e) Any other specific waste or wastewater constituents which the regional administrator may request in writing to be monitored.

(3) The frequency of monitoring of a waste or wastewater discharge required to be monitored pursuant to this rule shall be specified in a state or national permit when issued, except that the ~~commission~~ DEPARTMENT at any time may require additional monitoring by notification of the permittee in writing.

R 323.2155 Monitoring of discharges authorized by permits; recording and reporting.

Rule ~~4455~~ 2155. (1) A permittee required to monitor a waste or wastewater discharge pursuant to R 323.2155 2154, shall maintain records of all information resulting from such monitoring, including the date, place, and time of sampling; ~~and~~ dates analyses were performed; the person performing the analyses; the analytical techniques, procedures, or methods used; and the results of ~~such~~ THE analyses. All records and results of monitoring activities and calibration and maintenance records shall be retained by the permittee a minimum of 3 years unless otherwise required or extended by the ~~commission~~ DEPARTMENT or the regional administrator.

(2) The ~~commission~~ DEPARTMENT may require a permittee to report periodically the results of all monitoring activities undertaken ~~by him~~ on an appropriate reporting form supplied by the ~~commission~~ DEPARTMENT. The ~~commission~~ DEPARTMENT shall notify the permittee of the frequency of reporting, but ~~in no case shall~~ the reporting frequency SHALL NOT be less than at least once in a period of 1 year.

(3) Upon written request of the regional administrator, the ~~commission~~ DEPARTMENT shall transmit thereto any reporting form or other monitoring information required by this rule.

R 323.2159 State and national permits; modification or revocation by the ~~commission~~ DEPARTMENT.

Rule 2159. (1) The ~~commission~~ DEPARTMENT may modify any term or condition, including a schedule of compliance, of a permit or may revoke a permit upon its finding of any of the following:

- (a) There is a change in any condition that requires a temporary or permanent reduction or elimination of a permitted discharge or constituent thereof.
- (b) The administrator of EPA issues a regulation prescribing a restriction or prohibition of a waste or wastewater constituent which is not covered by the terms and conditions of a permit or the regulation is more stringent than any limitation imposed on a wastewater constituent in a permit.
- (c) A modification of the terms and conditions of a permit or a time schedule thereon is necessary because of an act of God or other conditions beyond the control of the permittee.
- (d) In the case of discharges from publicly owned treatment works, federal treatment works grant funds are not available or are not sufficient to allow construction of the treatment works in a time schedule set forth in the permit.
- (e) There is a violation of any term or condition of the permit.
- (f) The permittee has obtained a permit by misrepresentation or has failed to disclose all relevant facts to the commission.
- (g) A toxic effluent standard or prohibition, including any schedule of compliance specified therein, is established pursuant to section 307(a) of the federal act for a toxic waste or wastewater constituent which is present in the permittee's discharge and the standard or prohibition is more stringent than any limitation upon the waste or wastewater constituent in the permit.
- (h) The POTW receives wastewater from a nondomestic source and the development of a pretreatment program is necessary to control the introduction of regulated pollutants.
- (i) When a request for removal credits is approved in accordance with R 323.2162(3)-2313(a).
- (2) The ~~commission~~ DEPARTMENT shall notify the regional administrator of any change in status or condition of a permit and he or she shall have an opportunity to object thereto, in writing, within 45 days before the effective date of the modification. If the regional administrator objects in writing, THEN the objection shall be resolved before the modification is approved by the ~~commission~~ DEPARTMENT, unless the right to object is waived, in writing, by the regional administrator.
- (3) A permittee who is affected by a modification of a permit by the ~~commission~~ DEPARTMENT shall be notified not less than 90 days before the effective date of the modification and, upon petition therefor, shall have a hearing thereon pursuant to section 8(a) 3112 of ~~the commission act~~ PART 31 OF THE ACT. ~~and R 323.1031 to R323.1036.~~
- (4) If the ~~commission~~ DEPARTMENT modifies an effluent limitation or a schedule of compliance in a permit, notice of the modification shall be mailed to all persons on the ~~commission~~ DEPARTMENT mailing list for public notices and fact sheets as prescribed by R 323.2124, and any interested person may comment thereon within 30 days following the date of notification.

R 323.2160 Enforcement.

Rule ~~4460~~ 2160. (1) A person who submits false information to the ~~commission~~ DEPARTMENT on an application, other NPDES form, or any other reporting form, or who violates any of these rules, a term, condition, or schedule of compliance contained within a valid state or national permit, or ~~the commission act~~ PART 31 OF THE ACT is subject to the remedies or penalties prescribed by sections 7 and 10 3115 of ~~the commission act~~ PART 31 OF THE ACT.

(2) The ~~commission~~ DEPARTMENT shall notify the regional administrator of all violations of these rules, a valid permit, or ~~the commission act~~ PART 31 OF THE ACT, and of the means by which the ~~commission~~ DEPARTMENT proposes to correct or require the correction of violations.

R 323.2161 Storm water discharge permits.

Rule 2161. (1) A person who discharges storm water that is subject to regulation pursuant to the provisions of section 402(p) of the federal act and the corresponding regulations promulgated in 40 C.F.R. §122.26 (2000) shall ~~comply with all of the applicable provisions of the federal act and corresponding regulations. The provisions of 40 C.F.R. §122 are adopted by reference in R 323.2189.~~ APPLY FOR OR OBTAIN A NATIONAL PERMIT BY MARCH 10, 2003, OR EARLIER WHERE ANOTHER DATE IS SPECIFIED, IF THE PERSON HAS, WILL HAVE, OR IS ANY OF THE FOLLOWING:

(a) STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY. IF A FACILITY IS NOT OWNED OR OPERATED BY A PUBLIC BODY THAT SERVES A POPULATION OF LESS THAN 100,000, OTHER THAN AN AIRPORT, POWERPLANT, OR UNCONTROLLED SANITARY LANDFILL, THE PERMIT APPLICATION WAS TO HAVE BEEN SUBMITTED TO THE DEPARTMENT BY OCTOBER 1, 1992. A NATIONAL PERMIT IS NOT REQUIRED IF, IN ACCORDANCE WITH 40 C.F.R. §122.26(g) (2000), A DISCHARGE COMPOSED ENTIRELY OF STORM WATER IS NOT A STORM WATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY BECAUSE THERE IS NO EXPOSURE OF INDUSTRIAL MATERIALS AND ACTIVITIES TO RAIN, SNOW, SNOWMELT OR RUNOFF, OR ANY COMBINATION, AND IF THE DISCHARGER HAS MET THE CONDITIONS OF NO EXPOSURE LISTED ON A CERTIFICATION FORM PROVIDED BY THE DEPARTMENT. THE DISCHARGER SHALL COMPLETE, SIGN, AND SUBMIT TO THE DEPARTMENT THE CERTIFICATION FORM PROVIDED BY THE DEPARTMENT. A NEW CERTIFICATION FORM SHALL BE SUBMITTED ONCE EVERY 5 YEARS TO QUALIFY FOR CONTINUATION OF THE NO EXPOSURE EXCLUSION. THIS EXCLUSION PROVISION SHALL NO LONGER APPLY AND A NATIONAL PERMIT SHALL BE REQUIRED UNDER EITHER OF THE FOLLOWING CONDITIONS:

(A) IF CIRCUMSTANCES CHANGE AND INDUSTRIAL MATERIALS OR ACTIVITIES BECOME EXPOSED TO RAIN, SNOW, SNOWMELT AND/OR RUNOFF, OR ANY COMBINATION, THEN THE CONDITIONS FOR THIS EXCLUSION NO LONGER APPLY. ANY CONDITIONALLY EXEMPT DISCHARGER WHO ANTICIPATES CHANGES IN CIRCUMSTANCES SHALL APPLY FOR AND OBTAIN NATIONAL PERMIT AUTHORIZATION BEFORE THE CHANGE OF CIRCUMSTANCES. FAILURE TO DO SO COULD RESULT IN PENALTIES AS PROVIDED UNDER PART 31 OF THE ACT FOR A DISCHARGE WITHOUT A PERMIT.

(B) NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, THE DEPARTMENT RETAINS THE AUTHORITY TO REQUIRE NATIONAL PERMIT AUTHORIZATION, AND DENY THIS EXCLUSION, UPON MAKING A DETERMINATION THAT THE DISCHARGE CAUSES, HAS A REASONABLE POTENTIAL TO CAUSE, OR CONTRIBUTES TO, A VIOLATION OF AN APPLICABLE WATER QUALITY STANDARD.

(b) STORM WATER DISCHARGES FROM A SITE OF CONSTRUCTION ACTIVITY. AFTER OCTOBER 1, 1992, THE NOTICE OF COVERAGE SHALL BE RECEIVED BEFORE THE STARTUP OF CONSTRUCTION FOR ANY STORM WATER DISCHARGE FROM A SITE OF CONSTRUCTION ACTIVITY DISTURBING 5 ACRES OR MORE THAT IS NOT CONDUCTED BY A PUBLIC BODY SERVING A POPULATION OF LESS THAN 100,000.

(c) AN MS4 OPERATOR LOCATED IN AN URBANIZED AREA. ONLY STORM WATER THAT FLOWS FROM WITHIN THE URBANIZED AREA IS REGULATED.

(d) AN MS4 OPERATOR LOCATED WITHIN AN URBANIZING AREA, WHICH IS DESIGNATED BY THE DEPARTMENT TO APPLY FOR A NATIONAL PERMIT ON THE BASIS THAT IT DISCHARGES STORM WATER WHICH RESULTS IN A VIOLATION OF WATER QUALITY

STANDARDS OR WHICH WOULD IMMINENTLY RESULT IN A VIOLATION OF WATER QUALITY STANDARDS IN THE ABSENCE OF REGULATION.

(e) DESIGNATED BY THE DEPARTMENT TO NEED STORM WATER CONTROLS FOR THE DISCHARGE BASED ON WASTELOAD ALLOCATIONS THAT ARE PART OF TOTAL MAXIMUM DAILY LOADS (TMDLs) DEVELOPED BY THE DEPARTMENT THAT ADDRESS THE POLLUTANTS OF CONCERN.

(f) A DISCHARGE, OR CATEGORY OF DISCHARGES WITHIN A GEOGRAPHIC AREA, THAT IS DETERMINED BY THE DEPARTMENT TO BE A SIGNIFICANT CONTRIBUTOR OF POLLUTANTS TO WATERS OF THE STATE OR TO CONTRIBUTE TO A VIOLATION OF WATER QUALITY STANDARDS OR TO CONTRIBUTE SUBSTANTIALLY TO THE POLLUTANT LOADINGS OF A PHYSICALLY INTERCONNECTED SEPARATE STORM SEWER OPERATED BY A REGULATED MS4 OPERATOR.

(g) A STORM WATER DISCHARGER THAT IS THE SUBJECT OF A PETITION TO THE DEPARTMENT TO REQUIRE A NATIONAL PERMIT, AND THE DEPARTMENT DETERMINES THAT THE PERSON SHALL APPLY FOR A NATIONAL PERMIT IN ACCORDANCE WITH SUBDIVISION (f) OF THIS SUBRULE.

(2) IF A NATIONAL PERMIT APPLICATION IS REQUIRED FOR OPERATION OF A SEPARATE STORM SEWER SYSTEM UNDER SUBDIVISION (c), (d), (e), OR (f) OF THIS SUBRULE, THEN EACH CITY, VILLAGE, TOWNSHIP, AND COUNTY BOARD OF COMMISSIONERS WITHIN THE REGULATED AREA SHALL APPLY FOR A NATIONAL PERMIT. A COUNTY BOARD OF COMMISSIONERS MAY, FOR 1 OR MORE SEPARATE STORM SEWER SYSTEMS, DEFER THE APPLICATION REQUIREMENT TO THE COUNTY AGENCY THAT OPERATES THE SEPARATE STORM SEWER SYSTEM, IN WHICH CASE THE COUNTY AGENCY THAT OPERATES THE SEPARATE STORM SEWER SYSTEM SHALL APPLY FOR A NATIONAL PERMIT. A COUNTY AGENCY OR OTHER PUBLIC BODY OR STATUTORY HOUSING AUTHORITY THAT OPERATES A SEPARATE STORM SEWER SYSTEM IN THE REGULATED AREA MAY COOPERATE WITH THE PERMITTED CITY, VILLAGE, TOWNSHIP, OR COUNTY BOARD OF COMMISSIONERS SO THAT THE TERMS AND CONDITIONS OF THE NATIONAL PERMIT MAY BE MET BY THE CITY, VILLAGE, TOWNSHIP, OR COUNTY BOARD OF COMMISSIONERS FOR THE SEPARATE STORM SEWER SYSTEM OPERATED BY THE COUNTY AGENCY OR OTHER PUBLIC BODY OR STATUTORY HOUSING AUTHORITY. IN THIS CASE, THE COUNTY AGENCY OR OTHER PUBLIC BODY OR STATUTORY HOUSING AUTHORITY DOES NOT NEED TO APPLY FOR A NATIONAL PERMIT. A COUNTY AGENCY OR OTHER PUBLIC BODY OR STATUTORY HOUSING AUTHORITY THAT CHOOSES NOT TO COOPERATE WITH THE PERMITTED CITY, VILLAGE, TOWNSHIP, OR COUNTY BOARD OF COMMISSIONERS SHALL APPLY FOR A NATIONAL PERMIT FOR THE SEPARATE STORM SEWER SYSTEM OR SYSTEMS IT OPERATES.

(3) A PERSON WHO IS DESIGNATED BY THE DEPARTMENT TO BE REGULATED IN ACCORDANCE WITH SUBRULE (1)(d), (e) OR (f) OF THIS RULE SHALL APPLY TO THE DEPARTMENT FOR A NATIONAL PERMIT WITHIN 180 DAYS OF RECEIPT OF NOTICE FROM THE DEPARTMENT THAT A NATIONAL PERMIT IS NEEDED, UNLESS PERMISSION FOR A LATER DATE IS GRANTED BY THE DEPARTMENT. THIS SUBRULE DOES NOT APPLY TO STORM WATER DISCHARGED FROM A SITE OF CONSTRUCTION ACTIVITY.

R 323.2161a MUNICIPAL STORM WATER DISCHARGE NATIONAL PERMIT MINIMUM REQUIREMENTS.

RULE 2161a. (1) THE NATIONAL PERMIT FOR A REGULATED MS4 OPERATOR SHALL REQUIRE, AT A MINIMUM, THAT THE OPERATOR DEVELOP, IMPLEMENT, AND ENFORCE A STORM WATER MANAGEMENT PROGRAM DESIGNED TO DO BOTH OF THE FOLLOWING:

(a) REDUCE THE DISCHARGE OF STORM WATER POLLUTANTS TO THE MAXIMUM EXTENT PRACTICABLE (MEP).

(b) PROTECT WATER QUALITY AND SATISFY THE APPROPRIATE WATER QUALITY REQUIREMENTS OF THE FEDERAL ACT.

(2) UNLESS AUTHORIZED TO DISCHARGE UNDER AN INDIVIDUAL NATIONAL PERMIT APPLIED FOR UNDER 40 C.F.R. §122.26(d) (2000) OR AUTHORIZED TO DISCHARGE UNDER ANOTHER PERMIT THAT THE REGIONAL ADMINISTRATOR HAS DETERMINED IS ADEQUATE TO MEET THE REQUIREMENTS OF THE FEDERAL ACT, A REGULATED MS4 OPERATOR SHALL COMPLY WITH THE REQUIREMENTS OF 40 C.F.R. §122.34 (2000) AS SPECIFIED IN R 323.2161a(3) TO (12).

(3) A REGULATED MS4 OPERATOR'S STORM WATER MANAGEMENT PROGRAM SHALL INCLUDE A PLAN FOR IMPLEMENTING, AT A MINIMUM, THE MEASURES DESCRIBED AS FOLLOWS:

(a) A PUBLIC EDUCATION PROGRAM TO DISTRIBUTE EDUCATIONAL MATERIALS TO THE COMMUNITY OR CONDUCT EQUIVALENT OUTREACH ACTIVITIES ABOUT THE IMPACTS OF STORM WATER DISCHARGES ON WATER BODIES AND THE STEPS THAT THE PUBLIC CAN TAKE TO REDUCE POLLUTANTS IN STORM WATER RUNOFF.

(b) AT A MINIMUM, COMPLY WITH STATE AND LOCAL PUBLIC NOTICE REQUIREMENTS WHEN IMPLEMENTING A PUBLIC INVOLVEMENT/PARTICIPATION PROGRAM.

(c) A PROGRAM TO DETECT AND ELIMINATE ILLICIT CONNECTIONS AND DISCHARGES. UNDER THE ILLICIT DISCHARGE ELIMINATION PROGRAM, A PERMITTEE SHALL, AT A MINIMUM, PERFORM ALL OF THE FOLLOWING:

(i) DEVELOP, IF NOT ALREADY COMPLETED, A STORM SEWER SYSTEM MAP, SHOWING THE LOCATION OF ALL OUTFALLS THE PERMITTEE OPERATES OR POINTS OF DISCHARGE INTO A SEPARATE STORM SEWER SYSTEM OPERATED BY ANOTHER PUBLIC BODY, AND THE NAMES AND LOCATION OF ALL WATERS OF THE STATE THAT RECEIVE DISCHARGES FROM THE PERMITTEE'S SEPARATE STORM SEWER SYSTEM.

(ii) DEVELOP AND IMPLEMENT A PLAN TO DETECT AND ADDRESS NON-STORM WATER DISCHARGES TO THE SEPARATE STORM SEWER SYSTEM, INCLUDING ILLEGAL DUMPING AND FAILING ON-SITE SEWAGE DISPOSAL SYSTEMS AS APPROPRIATE.

(iii) INFORM PUBLIC EMPLOYEES, BUSINESSES, AND THE GENERAL PUBLIC OF HAZARDS ASSOCIATED WITH ILLEGAL DISCHARGES AND IMPROPER DISPOSAL OF WASTE.

(iv) TO THE EXTENT ALLOWABLE UNDER STATE OR LOCAL LAW, EFFECTIVELY PROHIBIT, THROUGH ORDINANCE, OR OTHER REGULATORY MECHANISM, NON-STORM WATER DISCHARGES INTO THE STORM SEWER SYSTEM AND IMPLEMENT APPROPRIATE ENFORCEMENT PROCEDURES AND ACTIONS. DISCHARGES ALREADY AUTHORIZED UNDER AN NPDES PERMIT ARE EXCLUDED FROM THIS REQUIREMENT. DISCHARGES OR FLOWS FROM FIRE FIGHTING ACTIVITIES ARE EXCLUDED FROM THE EFFECTIVE PROHIBITION AGAINST NON-STORM WATER AND NEED ONLY BE ADDRESSED WHERE THEY ARE IDENTIFIED AS SIGNIFICANT SOURCES OF POLLUTANTS TO WATERS OF THE STATE. THE

FOLLOWING CATEGORIES OF NON-STORM WATER DISCHARGES OR FLOWS NEED TO BE PROHIBITED ONLY IF IDENTIFIED AS SIGNIFICANT CONTRIBUTORS TO VIOLATIONS OF STATE WATER QUALITY STANDARDS:

- (A) WATER LINE FLUSHING.
- (B) LANDSCAPE IRRIGATION.
- (C) DIVERTED STREAM FLOWS.
- (D) RISING GROUND WATERS.
- (E) UNCONTAMINATED GROUND WATER SEEPAGE INTO STORM SEWERS.
- (F) UNCONTAMINATED PUMPED GROUND WATER, EXCEPT FOR GROUNDWATER CLEANUPS.
- (G) DISCHARGES FROM POTABLE WATER SOURCES.
- (H) FOUNDATION DRAINS.
- (I) AIR CONDITIONING CONDENSATION.
- (J) IRRIGATION WATER.
- (K) SPRINGS.
- (L) WATER FROM CRAWL SPACE PUMPS.
- (M) FOOTING DRAINS.
- (N) LAWN WATERING.
- (O) WATER FROM NONCOMMERCIAL CAR WASHING.
- (P) FLOWS FROM RIPARIAN HABITATS AND WETLANDS.
- (Q) RESIDENTIAL SWIMMING POOL DISCHARGES AND DECHLORINATED SWIMMING POOL DISCHARGES.
- (R) STREET WASH WATER.
- (d) A STORM WATER MANAGEMENT PROGRAM FOR AREAS OF CONSTRUCTION ACTIVITY, WHICH SHALL INCLUDE ALL OF THE FOLLOWING:
 - (i) A PROCEDURE TO NOTIFY THE PART 91 PERMITTING ENTITY AND THE DEPARTMENT WHEN SOIL OR SEDIMENT ARE DEPOSITED TO THE STORM SEWER SYSTEM FROM A CONSTRUCTION ACTIVITY IN VIOLATION OF SECTION 9116 OF PART 91 OF THE ACT OR IN VIOLATION OF THE EFFECTIVE PROHIBITION ON NON-STORM WATER DISCHARGES INTO THE SEPARATE STORM SEWER SYSTEM AS REQUIRED IN SUBDIVISION (c)(iv) OF THIS SUBRULE.
 - (ii) A PROCEDURE TO ENSURE ADEQUATE ALLOWANCE FOR SOIL EROSION AND SEDIMENTATION CONTROLS ON PRELIMINARY SITE PLANS, AS APPLICABLE.
 - (iii) A PROCEDURE FOR RECEIPT AND CONSIDERATION OF COMPLAINTS OR OTHER INFORMATION SUBMITTED BY THE PUBLIC.
- (e) A PROGRAM TO ADDRESS POST-CONSTRUCTION STORM WATER RUNOFF FROM NEW DEVELOPMENT AND REDEVELOPMENT PROJECTS THAT DISTURB 1 OR MORE ACRES, INCLUDING PROJECTS LESS THAN 1 ACRE THAT ARE PART OF A LARGER COMMON PLAN OF DEVELOPMENT OR SALE, THAT DISCHARGE INTO THE SEPARATE STORM SEWER SYSTEM. THE PROGRAM SHALL INCLUDE AN ORDINANCE OR OTHER REGULATORY MECHANISM TO ADDRESS POST-CONSTRUCTION RUNOFF FROM NEW DEVELOPMENT AND REDEVELOPMENT PROJECTS TO THE EXTENT ALLOWABLE UNDER STATE OR LOCAL LAW. THE ORDINANCE OR OTHER REGULATORY MECHANISM SHALL BE DESIGNED TO PREVENT OR MINIMIZE WATER QUALITY IMPACTS, INCLUDING RESOURCE IMPAIRMENT

RESULTING FROM EXTREME FLOW VOLUMES AND FLOW CONDITIONS, AND SHALL INCLUDE ALL OF THE FOLLOWING:

- (i) A REQUIREMENT FOR REVIEW OF POST-CONSTRUCTION STORM WATER BEST MANAGEMENT PRACTICES DURING INITIAL SITE PLAN REVIEW, AS APPLICABLE.
- (ii) STRATEGIES FOR IMPLEMENTATION OF STRUCTURAL OR NON-STRUCTURAL, OR BOTH, BEST MANAGEMENT PRACTICES APPROPRIATE FOR THE COMMUNITY.
- (iii) REQUIREMENTS FOR ADEQUATE LONG-TERM OPERATION AND MAINTENANCE OF BEST MANAGEMENT PRACTICES.

(f) AN OPERATION AND STORM WATER MAINTENANCE PROGRAM THAT INCLUDES A STAFF TRAINING COMPONENT AND HAS THE ULTIMATE GOAL OF PREVENTING OR REDUCING POLLUTANT RUNOFF FROM MUNICIPAL OPERATIONS. USING TRAINING MATERIALS THAT ARE AVAILABLE FROM EPA, THE STATE, OR OTHER ORGANIZATIONS, THE STORM WATER MANAGEMENT PROGRAM SHALL INCLUDE EMPLOYEE TRAINING TO PREVENT AND REDUCE STORM WATER POLLUTION FROM ACTIVITIES SUCH AS PARK AND OPEN SPACE MAINTENANCE, FLEET AND BUILDING MAINTENANCE, NEW CONSTRUCTION AND LAND DISTURBANCES, AND STORM WATER SYSTEM MAINTENANCE.

(4) A CITY, VILLAGE, OR TOWNSHIP MS4 OPERATOR SHALL COMPLY WITH THE TERMS AND CONDITIONS OF ITS NATIONAL PERMIT IN ALL AREAS WITHIN ITS POLITICAL OR TERRITORIAL BOUNDARIES FOR WHICH A PERMIT APPLICATION IS REQUIRED UNDER R 323.2161(1)(c), (d), (e), OR (f).

(5) A PUBLIC BODY OTHER THAN THE CITY, VILLAGE, OR TOWNSHIP, OR A STATUTORY HOUSING AUTHORITY, THAT HOLDS A NATIONAL PERMIT FOR A STORM DRAIN SYSTEM OR STORM DRAIN SYSTEMS IT OPERATES, SHALL COMPLY WITH THE TERMS AND CONDITIONS OF THE NATIONAL PERMIT FOR THE STORM DRAIN SYSTEM OR SYSTEMS IT OWNS OR OPERATES AND FOR WHICH A NATIONAL PERMIT APPLICATION WAS SUBMITTED IN ACCORDANCE WITH R 323.2161(1)(c), (d), (e), OR (f).

(6) IF AN EXISTING QUALIFYING LOCAL PROGRAM REQUIRES THE PERMITTEE TO IMPLEMENT 1 OR MORE OF THE MINIMUM CONTROL MEASURES OF SUBRULE (3) OF THIS RULE, THE DEPARTMENT MAY INCLUDE CONDITIONS IN THE NATIONAL PERMIT THAT DIRECT THE PERMITTEE TO FOLLOW THAT QUALIFYING PROGRAM'S REQUIREMENTS RATHER THAN THE REQUIREMENTS OF SUBRULE (3) OF THIS RULE. A QUALIFYING LOCAL PROGRAM IS A LOCAL OR STATE MUNICIPAL STORM WATER MANAGEMENT PROGRAM THAT IMPOSES, AT A MINIMUM, THE RELEVANT REQUIREMENTS OF SUBRULE (3) OF THIS RULE.

(7) TO REQUEST AUTHORIZATION TO DISCHARGE IN ACCORDANCE WITH A GENERAL PERMIT FOR A MUNICIPAL SEPARATE STORM SEWER SYSTEM, THE MS4 OPERATOR SHALL SUBMIT TO THE DEPARTMENT, ON A FORM PROVIDED BY THE DEPARTMENT, A NATIONAL PERMIT APPLICATION WHICH SHALL INCLUDE THE NAME OF A CONTACT PERSON RESPONSIBLE FOR IMPLEMENTING OR COORDINATING THE STORM WATER MANAGEMENT PROGRAM.

(8) THE PERMITTEE SHALL COMPLY WITH ANY MORE STRINGENT EFFLUENT LIMITATIONS IN THE NATIONAL PERMIT, INCLUDING PERMIT REQUIREMENTS THAT MODIFY, OR ARE IN ADDITION TO, THE MINIMUM MEASURES BASED ON A TOTAL MAXIMUM DAILY LOAD (TMDL) OR EQUIVALENT ANALYSIS. THE DEPARTMENT MAY INCLUDE MORE STRINGENT

LIMITATIONS BASED ON A TMDL OR EQUIVALENT ANALYSIS THAT DETERMINES THAT MORE STRINGENT LIMITATIONS ARE NEEDED TO PROTECT WATER QUALITY.

(9) THE PERMITTEE SHALL COMPLY WITH OTHER APPLICABLE NATIONAL PERMIT REQUIREMENTS, STANDARDS, AND CONDITIONS ESTABLISHED IN THE INDIVIDUAL OR GENERAL PERMIT, DEVELOPED CONSISTENT WITH THE PROVISIONS OF 40 C.F.R. §§122.41 TO 122.49 (2000), AS APPROPRIATE.

(10) A PERMITTEE SHALL EVALUATE COMPLIANCE WITH THE MINIMUM MEASURES REQUIRED UNDER SUBRULE (3) OF THIS RULE, THE APPROPRIATENESS OF THE BEST MANAGEMENT PRACTICES IMPLEMENTED TO COMPLY WITH THE MINIMUM MEASURES, AND PROGRESS TOWARDS ACHIEVING THE MEASURABLE GOALS REPORTED PURSUANT TO SUBRULE (12)(a)(ii) OF THIS RULE. THE DEPARTMENT MAY ESTABLISH MONITORING REQUIREMENTS IN ACCORDANCE WITH STATE OR WATERSHED SPECIFIC MONITORING PLANS OR AS NEEDED FOR A REGULATED MS4 OPERATOR TO DEMONSTRATE THE POLLUTION REDUCTION ACHIEVED BY IMPLEMENTING BEST MANAGEMENT PRACTICES.

(11) THE PERMITTEE SHALL KEEP RECORDS REQUIRED BY THE NATIONAL PERMIT FOR NOT LESS THAN 3 YEARS. THE PERMITTEE SHALL SUBMIT THE RECORDS TO THE NPDES AUTHORITY IF SPECIFICALLY ASKED TO DO SO. THE RECORDS, INCLUDING A DESCRIPTION OF THE STORM WATER MANAGEMENT PROGRAM, SHALL BE AVAILABLE TO THE PUBLIC AT REASONABLE TIMES DURING REGULAR BUSINESS HOURS UNLESS CONFIDENTIALITY IS PROTECTED UNDER 40 C.F.R. §122.7. (2000)

(12) THE PERMITTEE SHALL SUBMIT ANNUAL REPORTS TO THE DEPARTMENT FOR THE FIRST PERMIT TERM. FOR SUBSEQUENT PERMIT TERMS, THE PERMITTEE SHALL SUBMIT REPORTS IN YEAR 2 AND 4 UNLESS THE DEPARTMENT OR NATIONAL PERMIT REQUIRES MORE FREQUENT REPORTS. THE DEPARTMENT MAY ESTABLISH A REPORTING FORMAT THAT SHALL BE FOLLOWED BY THE PERMITTEE. UNLESS THE DEPARTMENT SPECIFIES OTHERWISE, THE ANNUAL REPORTS SHALL INCLUDE THE FOLLOWING MINIMUM INFORMATION:

(a) THE FIRST ANNUAL REPORT SUBMITTED BY A PERMITTEE FOR APPROVAL BY THE DEPARTMENT SHALL CONSIST OF A STORM WATER MANAGEMENT PROGRAM PLAN WHICH INCLUDES DESCRIPTIONS OF ALL OF THE FOLLOWING:

(i) THE BEST MANAGEMENT PRACTICES THAT WILL BE IMPLEMENTED FOR EACH OF THE STORM WATER MINIMUM MEASURES SPECIFIED IN SUBRULE (3)(a) TO (f) OF THIS RULE.

(ii) MEASURABLE GOALS FOR EACH OF THE BEST MANAGEMENT PRACTICES, INCLUDING, AS APPROPRIATE, THE YEARS IN WHICH THE REQUIRED ACTIONS WILL BE UNDERTAKEN, INTERIM MILESTONES, THE FREQUENCY OF THE ACTION, ANTICIPATED WATER QUALITY BENEFIT, AND A DESCRIPTION OF WATER QUALITY MONITORING. THE PERMITTEE IS NOT REQUIRED TO MEET THE MEASURABLE GOALS IDENTIFIED IN THE FIRST ANNUAL REPORT IN ORDER TO DEMONSTRATE COMPLIANCE WITH ANY MINIMUM MEASURE IN SUBRULE (2)(c) TO (f) OF THIS RULE FOR WHICH THE DEPARTMENT HAS NOT ISSUED A MENU OF BEST MANAGEMENT PRACTICES. IF THE DEPARTMENT DOES NOT ISSUE A MENU OF BEST MANAGEMENT PRACTICES, THE PERMITTEE STILL SHALL COMPLY WITH OTHER REQUIREMENTS OF THE NATIONAL PERMIT, INCLUDING GOOD FAITH IMPLEMENTATION OF BEST MANAGEMENT PRACTICES DESIGNED TO COMPLY WITH THE MINIMUM MEASURES.

- (iii) A SUMMARY OF THE STORM WATER CONTROL ACTIVITIES TO BE UNDERTAKEN DURING THE NEXT REPORTING CYCLE PURSUANT TO THE STORM WATER MANAGEMENT PROGRAM PLAN.
- (iv) THE STATUS OF THE WATER QUALITY IN THE WATERS OF THE STATE WITHIN THE PERMITTEE'S POLITICAL OR TERRITORIAL BOUNDARIES.
- (v) AN IDENTIFICATION AND PRIORITIZATION OF THE STRESSES ON THE RECEIVING WATERS WITHIN THE PERMITTEE'S POLITICAL OR TERRITORIAL BOUNDARIES.
- (vi) NOTICE THAT THE PERMITTEE IS RELYING ON ANOTHER REGULATED MS4 OPERATOR TO SATISFY NATIONAL PERMIT OBLIGATIONS UNDER 1 OR BOTH OF THE FOLLOWING CONDITIONS:
 - (A) THE PERMITTEE LACKS POWER OR AUTHORITY TO COMPLY WITH THE NATIONAL PERMIT OBLIGATION.
 - (B) THE OTHER REGULATED MS4 OPERATOR IS ALREADY IMPLEMENTING A PROGRAM THAT MEETS THE NATIONAL PERMIT OBLIGATION FOR THE PERMITTEE.
- (vii) NOTICE PROVIDED UNDER PARAGRAPH (vi) OF THIS SUBRULE IS VALID ONLY IF THE OTHER REGULATED MS4 OPERATOR HAS NATIONAL PERMIT AUTHORIZATION TO DISCHARGE AND PROVIDES NOTICE UNDER PARAGRAPH (viii) OF THIS SUBDIVISION FOR THE APPLICABLE NATIONAL PERMIT OBLIGATIONS.
- (viii) NOTICE THAT THE PERMITTEE WILL SATISFY SOME OF THE NATIONAL PERMIT OBLIGATIONS OF ANOTHER REGULATED MS4 OPERATOR, IF APPLICABLE.
- (ix) A CITY, VILLAGE, OR TOWNSHIP PERMITTEE SHALL SUBMIT TO THE DEPARTMENT THE IDENTIFICATION OF REGULATED MS4 OPERATORS OTHER THAN ITSELF WITHIN ITS POLITICAL OR TERRITORIAL BOUNDARIES THAT HAVE APPLIED FOR OR WILL APPLY FOR NATIONAL PERMITS, AND SHALL SUBMIT DESCRIPTIONS OF EITHER THE STORM DRAIN SYSTEMS OR THE AREAS WITHIN ITS BOUNDARIES FOR WHICH THE OTHER REGULATED MS4 OPERATORS CLAIM AUTHORITY.
- (b) ALL ANNUAL REPORTS SUBSEQUENT TO THE FIRST ANNUAL REPORT SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:
 - (i) THE STATUS OF COMPLIANCE WITH THE STORM WATER MANAGEMENT PROGRAM PLAN AND OTHER NATIONAL PERMIT CONDITIONS FOR WHICH THE PERMITTEE IS RESPONSIBLE, AN ASSESSMENT OF THE APPROPRIATENESS OF THE BEST MANAGEMENT PRACTICES IDENTIFIED IN THE STORM WATER MANAGEMENT PROGRAM PLAN, AN ASSESSMENT OF PROGRESS TOWARDS ACHIEVING THE IDENTIFIED MEASURABLE GOALS FOR EACH OF THE BEST MANAGEMENT PRACTICES, AND AN ASSESSMENT OF THE WATER QUALITY CONDITIONS WITHIN THE PERMITTEE'S JURISDICTION.
 - (ii) RESULTS OF INFORMATION COLLECTED AND ANALYZED, INCLUDING MONITORING DATA, IF ANY, DURING THE REPORTING PERIOD.
 - (iii) A SUMMARY OF THE STORM WATER ACTIVITIES TO BE UNDERTAKEN DURING THE NEXT REPORTING CYCLE PURSUANT TO THE STORM WATER MANAGEMENT PROGRAM PLAN.
 - (iv) NOTICE OF A CHANGE IN ANY IDENTIFIED BEST MANAGEMENT PRACTICES OR MEASURABLE GOALS FOR ANY OF THE MINIMUM MEASURES.
 - (v) A DESCRIPTION OF CHANGE IN STATUS OF ANY AGREEMENT OR AGREEMENTS USED BY THE PERMITTEE TO RELY ON ANOTHER PUBLIC BODY OR STATUTORY HOUSING AUTHORITY TO SATISFY SOME OF THE NATIONAL PERMIT OBLIGATIONS, IF APPLICABLE.

R 323.2189 Referenced federal regulations; definitions; adoption of standards by reference.

Rule 2189. (1) As used in the federal regulations referenced in R 323.2161, the terms “NPDES Sstate” and “NPDES Aauthority” shall mean the department of ~~natural-resources~~ ENVIRONMENTAL QUALITY as specified in this rule.

(2) The following federal regulations are adopted by reference in these rules, are available for inspection at the Lansing office of the department of ~~natural-resources~~ ENVIRONMENTAL QUALITY and may be obtained from the DEPARTMENT OF ENVIRONMENTAL QUALITY SURFACE WATER QUALITY DIVISION, P.O. BOX 30273, LANSING, MI 48909, AT A COST AS OF THE TIME OF ADOPTION OF THESE RULES OF 5 CENTS PER PAGE AND A LABOR RATE OF \$19.20 PER HOUR, OR FROM THE Superintendent of Documents, Government Printing Office, Washington, DC 20402, at a cost as of the time of the adoption of these rules of ~~\$36.00~~ 66.00, or ~~from the Department of Natural Resources ENVIRONMENTAL QUALITY Surface Water Quality Division, P.O. Box 30273, Lansing, MI 48909, at a cost as of the time of adoption of these rules of 20 cents per page~~ VIA THE INTERNET AT <http://www.access.gpo.gov/nara> :

(A) 40 C.F.R. §§122.3 (2000).

(B) 40 C.F.R. §122.7. (2000).

(aC) 40 C.F.R. §§122.21 ~~(c)(1)~~ (2000) and ~~(g)(3) and (7)(1990)~~.

(bD) 40 C.F.R. §122.26, as amended by 56 F.R. p. 56554, November 5, 1991, and 57 F.R. p. 11412, April 2, 1992 TO 27 (2000).

(E) 40 C.F.R. §122.28(b)(2)(v) (2000).

(G) 40 C.F.R. §122.34 TO 35 (2000).

~~(e) 40 C.F.R. §122.42(e).~~

(dH) 40 C.F.R. §§122.41 TO 122.49 (2000) ~~40 C.F.R. §122.44, as amended by 57 F.R. p. 11413, April 2, 1992.~~

(eI) 40 C.F.R. §122, ~~appendices E, F, and~~ appendix G (2000).

(J) 40 C.F.R. §123 ET SEQ., (1984).

(K) 40 C.F.R. §401.11 (2000).

(L) 40 C.F.R. §403 (2000).

R 323.2190 National permit for storm water discharge from construction activity; ~~effective date of subrule (2)(d).~~

Rule 2190. (1) Unless the ~~commission~~ DEPARTMENT has required an individual national permit pursuant to the provisions of subrule (3) or (4) of this rule, a point source discharge of storm water from a construction activity will be deemed to have a national permit AUTHORIZING THE DISCHARGE if ~~both of the following~~ criteria OF SUBDIVISIONS (A) and (B) OF THIS SUBRULE ~~are~~ IS met. EXCEPTION: AFTER MARCH 10, 2003, SMALL CONSTRUCTION ACTIVITIES, MEANING 1 TO 5 ACRES OF DISTURBED SOIL AS DEFINED IN R 323.2102(H)(ii) OR (iii), ARE AUTOMATICALLY DEEMED TO HAVE A NATIONAL PERMIT AUTHORIZING DISCHARGE OF STORM WATER IN ACCORDANCE WITH THIS RULE, AND ARE NOT REQUIRED TO MEET THE FILING REQUIREMENTS OF SUBDIVISION(a) OR (B) OF THIS SUBRULE, SUBRULE (2)(j) OF THIS RULE, AND SUBRULE(5)(b) OF THIS RULE. THE CONSTRUCTION PERMITTEE SHALL DO BOTH OF THE FOLLOWING:

(a) ~~The construction permittee has filed,~~ FILE with the ~~executive secretary~~ DEPARTMENT, on a form approved by the ~~commission~~ DEPARTMENT, notice of coverage pursuant to the provisions of this rule before the initiation of construction activity. The notice of coverage shall include all of the following:

(i) ~~Certification that an~~ A COPY OF THE individual soil erosion and sedimentation control permit for the site ~~has been~~ AS issued to the construction permittee or, if the construction activity is to be carried out by an authorized public agency, CERTIFICATION BY THE AUTHORIZED PUBLIC AGENCY that an approved control plan exists.

(ii) Acknowledgement by the construction permittee that any discharge that is made pursuant to the provisions of this rule shall be in compliance with ~~the commission act~~ PART 31 OF THE ACT and the rules promulgated thereunder.

(iii) A location map and a description of the nature of the construction activity.

(iv) The location of the proposed discharge and identification of the receiving water.

(v) The total area of the site and the area of the site that is expected to undergo construction activity during the life of the project.

(vi) NAME AND CERTIFICATION NUMBER OF A CERTIFIED STORM WATER OPERATOR RESPONSIBLE FOR INSPECTION OF THE CONSTRUCTION ACTIVITY IN ACCORDANCE WITH SUBRULE (2)(e) OF THIS RULE. ~~Site specific soil erosion control measures that will be used to control waste in storm water discharges during construction activity.~~

~~(vii) Site specific measures to control waste in storm water discharges that occur after construction activities have been completed.~~

~~(viii) An estimate of the runoff coefficient of the site and the increase in impervious area after the construction activities are completed, the nature of any fill material used, and existing data that describe the soil or the quality of the discharge.~~

(b) ~~The~~ PROVIDE A VALID SIGNATURE OF THE CONSTRUCTION PERMITTEE OR AUTHORIZED REPRESENTATIVE ON THE notice of coverage ~~has a valid signature~~. If the construction permittee is a partnership, association, corporation, industry, municipality, state agency, or interstate body, the valid signatory for the notice of coverage shall be determined in accordance with ~~the provisions of R 323.2114~~.

(2) A construction permittee that has authorization to discharge UNDER A NATIONAL PERMIT pursuant TO SUBRULE (1) OF THIS RULE ~~to this rule~~ shall comply with all of the following provisions:

(a) Not directly or indirectly discharge WASTES SUCH AS DISCARDED BUILDING MATERIALS, CONCRETE TRUCK WASHOUT, CHEMICALS, LUBRICANTS, FUELS, LITTER, SANITARY WASTE, OR any OTHER substance AT THE CONSTRUCTION SITE into the waters of the state in violation of ~~the commission act~~ PART 31 OF THE ACT or rules promulgated thereunder.

(b) Be in compliance with ~~the~~ A soil erosion and sedimentation control permit for the site or, if the construction activity is carried out by an authorized public agency, the approved control plan, including the selected control measures that are applicable to the site.

(c) Properly maintain and operate the soil erosion control measures.

(d) Have the soil erosion control measures under the specific supervision and control of a storm water operator who has been certified by the ~~director~~ DEPARTMENT as properly qualified to operate the soil erosion control measures. The certification shall be done in accordance with the requirements of R 323.1251 et seq. ~~of the Michigan Administrative Code. This requirement shall take effect 2 years after the effective date of this rule.~~

(e) Cause the construction activity to be inspected by a certified storm water operator once per week, and within 24 hours after every precipitation event that results in a discharge from the site and ensure that any needed corrective actions are carried out. A log of the inspections and corrective actions shall be maintained on

file by the construction permittee for review and shall be retained by the construction permittee for a period of 3 years from the date of the inspection or corrective action.

(f) In accordance with the requirements for on-land facilities as set forth in spillage of oil and polluting materials, being part 5 of these rules, provide facilities and comply with reporting procedures for containment of any accidental losses of oil or other polluting materials.

(g) Dispose of solids, sediment, filter backwash, or other waste that is removed from or results from the treatment or control of storm water in compliance with applicable state laws and regulations and in a manner that prevents any waste from entering waters of the state.

(h) Allow the ~~director or authorized representative~~ DEPARTMENT to enter upon the site at any reasonable time before the expiration of the authorization to discharge as set forth in subrule (5) of this rule, upon presentation of credentials and other documents as may be required by law, for the purpose of inspecting conditions relating to the pollution of any waters or determining compliance with the provisions of this rule.

(i) Upon request, make available for public inspection or provide to the ~~executive secretary~~ DEPARTMENT all reports or logs prepared pursuant to the provisions of this rule.

(j) File a revised notice of coverage in compliance with the provisions of subrule (1) of this rule before any expansion of the construction activity or change in the soil erosion control measures that requires a change in the soil erosion and sedimentation control permit.

(3) The ~~commission~~ DEPARTMENT may require that discharges from a construction activity be authorized by an individual national permit if it has been determined by the ~~commission~~ DEPARTMENT that unlawful pollution cannot be adequately guarded against and there is or may be water quality degradation that will violate the commission act unless requirements in addition to those in the soil erosion and sedimentation control permit are imposed. ~~Such a~~ A determination by the ~~commission~~ DEPARTMENT FOR AN INDIVIDUAL NATIONAL PERMIT OR OTHER ADDITIONAL CONTROL constitutes grounds for revocation of the authorization to discharge pursuant to the provisions of this rule.

(4) The ~~commission~~ DEPARTMENT may require that discharges from a construction activity be authorized by an individual national permit if it has been determined by the ~~director~~ DEPARTMENT that the responsible ~~act~~ 347 PART 91 permitting entity or authorized public agency is not carrying out a program that is adequate to ensure that the requirements of ~~act~~ 347 PART 91 OF THE ACT are complied with.

(5) The authorization to discharge pursuant to the provisions of this rule expires as follows:

(a) When the soil erosion and sedimentation control permit expires or is revoked or terminated by the ~~act~~ 347 PART 91 permitting entity in accordance with the provisions of ~~act~~ 347 PART 91 OF THE ACT and ~~Act No. 306 of the Public Acts of 1969, as amended, being 1969 PA 306, MCL 24.201 et seq. of the Michigan Compiled Laws,~~ or when the authorized public agency determines that the project has been completed by the stabilization of earth change activity.

(b) Five years from the date of the notice that is filed pursuant to the provisions of subrule (1)(a) of this rule, if the authorization to discharge has not previously expired pursuant to ~~the provisions of~~ subdivision (a) of this subrule. This authorization may be extended by filing a new notice in compliance with the provisions of subrule (1)(a) of this rule. The construction permittee shall file a notice of termination with the ~~executive secretary~~ DEPARTMENT on a form approved by the ~~commission~~ DEPARTMENT when authorization to discharge expires as set forth in accordance with subdivision (a) of this ~~rule~~ SUBRULE. The notice of termination shall include the name and address of the construction permittee, the location of the construction site and the mailing address, if available, and certification that stabilization of earth change activity has been completed or, if ~~such~~ THE certification cannot be made, the reason why the authorization to discharge has expired.

(6) The ~~commission~~ DEPARTMENT may revoke authorization to discharge pursuant to the provisions of this rule if an individual national permit is required pursuant to the provisions of subrule (3) of this rule or in compliance with ~~the provisions of~~ R 323.2159.

(7) Nothing in this rule shall be construed to preclude the institution of any legal action or relieve the construction permittee from any responsibilities, liabilities, or penalties to which the construction permittee may be subject pursuant to ~~the commission act~~ PART 31 OF THE ACT or rules promulgated thereunder.

(8) The provisions of this rule are severable, and if any provision of this rule or the application of any provisions of this rule to any circumstances is held invalid, the application of ~~such~~ THE provisionS OF THIS RULE to other circumstances and the remainder of this rule shall not be affected by the invalidity.

(9) The construction permittee shall take all reasonable steps to minimize any adverse impact to the surface or groundwaters of the state that result from noncompliance with any of the conditions specified in this rule.

(10) If, for any reason, the construction permittee does not comply with, or will be unable to comply with, any of the conditions that are specified in this rule, the construction permittee shall provide the ~~executive secretary~~ DEPARTMENT with the following information, in writing, within 5 days of becoming aware of ~~such condition~~ THE NONCOMPLIANCE OR INABILITY TO COMPLY:

(a) A description of the noncompliance and its cause.

(b) The period of noncompliance, including exact dates and times, or, if the noncompliance is not corrected, the anticipated time that the noncompliance is expected to continue and the steps taken to reduce, eliminate, and prevent recurrence of the noncompliance.

(11) The provisions of this rule do not convey any property rights in either real or personal property or any exclusive privileges, authorize any pollution, impairment, or destruction of the natural resources of the state or the violation of any federal, state, or local laws or regulations, or obviate the necessity of obtaining permits or approvals from other units of government as may be required by law.

(12) The provisions of this rule do not exempt the construction permittee from giving notice to public utilities and complying with each of the requirements of ~~Act No. 53 of the Public Acts of 1974, as amended, being 1974 PA 53, MCL section §460.701 et seq. of the Michigan Compiled Laws.~~

(13) This rule shall not provide authorization to discharge storm water from construction activity which is mixed with non-storm water or which is subject to an existing national permit or general permit.

R 323.2191 General permits generally.

Rule 2191. (1) Upon a determination by the ~~commission~~ DEPARTMENT that certain discharges are appropriately and adequately controlled by a general permit, the ~~commission~~ DEPARTMENT may issue a general permit to cover a category of discharge. The general permit may cover storm water point source discharges or a category of point source discharges other than storm water point source discharges if all of the following provisions apply:

(a) The sources involve the same or substantially similar types of operations.

(b) The sources discharge the same types of wastes.

(c) The sources require the same effluent limitation or operating conditions.

(d) The sources require the same or similar monitoring.

(2) General permits shall be issued, modified, revoked and reissued, or terminated in compliance with these rules.

(3) The ~~commission~~ DEPARTMENT may require any person who is authorized to make a discharge, by a general permit, to apply for and obtain an individual national permit if any of the following circumstances apply:

(a) The discharge is a significant contributor to pollution as determined by the ~~commission~~ DEPARTMENT on a case-by-case basis.

- (b) The discharger is not complying or has not complied with the conditions of the general permit.
- (c) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of waste applicable to the point source discharge.
- (d) Effluent standards and limitations are promulgated for point source discharges subject to the general permit.
- (e) The ~~commission~~ DEPARTMENT determines that the criteria under which the general permit was issued no longer apply. Any person may request the ~~commission~~ DEPARTMENT to take action pursuant to the provisions of this subrule.
- (4) If the ~~commission~~ DEPARTMENT requires a person who is authorized to make a discharge, by a general permit, to apply for an individual national permit as provided in subrule (3) of this rule, the ~~commission~~ DEPARTMENT shall do so in writing. Written notice shall include all of the following:
 - (a) A statement of the reasons for the ~~commission's~~ DEPARTMENT'S decision.
 - (b) An application form.
 - (c) A statement setting the date by which the owner or operator shall file the application.
 - (d) A statement that on the effective date of the individual national permit, the general permit, as it applies to the individual discharge, will be superseded.
- (5) Any person having a discharge which is authorized, or proposing a discharge which may be authorized, by a general permit may request to be excluded from the coverage of the general permit and apply for an individual national permit. An application shall be submitted pursuant to these rules, with reasons supporting the request, to the ~~executive secretary~~ DEPARTMENT. The ~~commission~~ DEPARTMENT may deny an application for an individual national permit if it determines that the general permit is more appropriate.
- (6) The issuance of an individual national permit to a person will supersede the applicability of the general permit on the effective date of the individual national permit.

R 323.2192 General permits; application and coverage.

Rule 2192. All of the following provisions are application requirements for coverage under general permits and shall be complied with:

- (a) A person who requests coverage under a general permit shall comply with all applicable requirements of this part, except where the ~~commission~~ DEPARTMENT has approved an amended application form that is specific to a general permit.
- (b) Upon the receipt of an application for coverage under an existing general permit, the ~~executive secretary~~ DEPARTMENT shall determine if the discharge meets the criteria for coverage under the general permit. The issuance of a notice of coverage by the ~~executive secretary~~ DEPARTMENT which states that the discharge meets the criteria initiates coverage by the general permit.
- (c) The ~~executive secretary~~ DEPARTMENT shall promptly report to the ~~commission~~ DEPARTMENT each person having a discharge for which coverage by general permit has been initiated pursuant to the provisions of subdivision (b) of this rule. A person who is aggrieved by the coverage may file a sworn petition for a contested case hearing on the matter with the ~~commission~~ DEPARTMENT in accordance with the provisions of section 8(3) 3113 of ~~the commission act~~.PART 31 OF THE ACT. A petition that is filed more than 60 days after coverage by the general permit is reported to the ~~commission~~ DEPARTMENT may be rejected by the ~~commission~~ DEPARTMENT as being untimely.
- (d) A person who holds an individual national permit for a point source discharge that is excluded from a general permit solely because the person already has an individual national permit may apply for coverage under the general permit. The ~~commission~~ DEPARTMENT may terminate the individual national permit and include the discharge under the coverage of the general permit if the ~~commission~~ DEPARTMENT determines that the general permit is more appropriate.

R 323.2193 National Permit Clean Corporate Citizen Benefits.

Rule 2193. An establishment that has been designated as a clean corporate citizen by the department under R 324.1504 is eligible for the following benefits related to national permits:

(a) A clean corporate citizen applying for reissuance of a national permit may certify that the previous application information, or a portion of the application, is still representative of the discharge, and need not provide new discharge monitoring information, unless there have been changes in state or federal application requirements ~~including, but not limited to, the adoption of or modification to analytical methods under 40 C.F.R. §136,~~ since the previous application was submitted. The department may request additional information as necessary to process the permit.

(b) When applying for a national permit for a new wastewater discharge that is not covered by a federal technology-based treatment standard, a clean corporate citizen may provide its determination of best professional judgment (BPJ) for technology-based effluent limitations for the case-by-case determinations required under section 402(a)(1) of the federal act. The department will review and use the clean corporate citizen's determination of BPJ for purposes of a draft permit, unless the determination is inconsistent with state or federal regulations or is contrary to known technology previously used in setting BPJ permit limitations.

(c) A clean corporate citizen that qualifies for coverage under a general permit as provided in R 323.2191 is not required to obtain an individual national permit solely because it is designated as a major discharger by the United States Environmental Protection Agency.

(d) A nonmunicipal clean corporate citizen may construct and utilize wastewater treatment processes to comply with effluent limitations of a national permit without department approval of the plans and specifications for the wastewater treatment processes.

(e) The department shall not conduct more than 1 comprehensive sampling inspection during the effective period of the national permit for a clean corporate citizen, unless the department has reason to believe that the permittee is not in compliance with any applicable statute, rule, national permit, or enforcement order.

(f) The national permit for a clean corporate citizen shall include a provision allowing the ~~director or his or her authorized representative~~ DEPARTMENT to reduce, but not eliminate, the monitoring frequency of parameters specified in the permit. The ~~director or his or her authorized representative~~ DEPARTMENT may reduce monitoring. Reduced monitoring shall be sufficient to determine compliance and will be conditioned on continued compliance with parameter limitations. If reduced monitoring identifies a violation of a parameter limitation, then the permit shall provide for an increase in monitoring until compliance is regained. A clean corporate citizen shall submit a request for reduced monitoring to the department in writing. Approval of reduced monitoring under this rule is not subject to the requirements in R 323.2159.

(g) Unless otherwise required by the ~~director or the director's authorized representative~~ DEPARTMENT, or as necessary for a complete application for national permit reissuance, upon request, the ~~director or the director's authorized representative~~ DEPARTMENT shall authorize a clean corporate citizen to submit discharge monitoring reports on an annual basis. This provision does not abrogate the permittee's responsibility to report instances of noncompliance required to be reported by statute, rule, national permit, or enforcement order.

(h) The department shall expedite its response to a request from a clean corporate citizen to use a water treatment additive.

R 323.2195 Termination of Bbenefits.

Rule 2195. Upon termination of a clean corporate citizen designation, the department shall terminate or restrict all benefits provided to a former clean corporate citizen under R 323.2193 and R 323.2194 as provided in this part and as determined by the ~~director~~ DEPARTMENT.

NOTICE OF PUBLIC HEARING

ORR # 2001-008

DEPARTMENT OF ENVIRONMENTAL QUALITY

SURFACE WATER QUALITY DIVISION

The Michigan Department of Environmental Quality (DEQ), Surface Water Quality Division (SWQD), will conduct a public hearing on proposed administrative rules promulgated pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); ORR 2001-008EQ. These rules will incorporate federal Phase II storm water regulations to allow the state to implement the full storm water program required under its National Pollutant Discharge Elimination System (NPDES) delegation.

The public hearing will be held on April 30, 2002 at 2:00 p.m., at Constitution Hall, 525 W. Allegan, Lansing, Michigan 48933.

Copies of the proposed rules ORR 2001-008EQ can be downloaded from the Internet through the Office of Regulatory Reform at <http://www.state.mi.us/orr>. Copies of the rules may also be obtained by contacting the Lansing office at:

Surface Water Quality Division
Michigan Department of Environmental Quality
P.O. Box 30273
Lansing, Michigan 48909-7773
Phone: 517-241-8993
Fax: 517-373-9958
E-Mail: fifem@michigan.gov

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by May 14, 2002.

Persons needing accommodations for effective participation in the meeting should contact the Surface Water Quality Division at 517-241-8993, one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, and Executive Order 1995-18. These rules will become effective seven days after filing with the Secretary of State.

David A. Hamilton, Chief
Surface Water Quality Division

**EXECUTIVE ORDERS
AND
EXECUTIVE REORGANIZATION ORDERS**

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

(a) Executive orders and executive reorganization orders.”

EXECUTIVE ORDERS

EXECUTIVE ORDER

2002 - 5

GOVERNOR'S WORKFORCE COMMISSION

MICHIGAN WORKFORCE INVESTMENT BOARD

DEPARTMENT OF CAREER DEVELOPMENT

EXECUTIVE REORGANIZATION

WHEREAS, Article V, Section 1 of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for effective administration; and

WHEREAS, the current Governor's Workforce Commission was established by Executive Order 1994-26, being Section 408.48 of the Michigan Compiled Laws; to advise the Governor and the then Chief Executive Officer of the Michigan Jobs Commission on matters regarding workforce development with all the authority, powers, duties, functions, and responsibilities of the Governor's Workforce Commission created under Executive Order 1993-3; and

WHEREAS, Executive Order 1999-1, being Section 408.40 of the Michigan Compiled Laws; transferred all of the authority, powers, duties, functions and responsibilities of the Governor's Workforce Commission to the Department of Career Development by a Type II transfer as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws; and

WHEREAS, the federal Workforce Investment Act of 1998, 29 USC 2801 et seq., was enacted "to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation" (29 USC 2811); and

WHEREAS, as a condition of receiving federal funds, the Workforce Investment Act of 1998 requires each state to establish a state workforce investment board or designate an alternative entity for carrying out duties related to statewide workforce investment activities (29 USC 2821); and

WHEREAS, prior to this Order, the Governor's Workforce Commission served as the alternative entity required under Section 111 of the Workforce Investment Act of 1998 (29 USC 2821); and

WHEREAS, changes in the structure of the Governor's Workforce Commission are needed to reflect the current organization of state government; and

WHEREAS, federal law requires the state to adopt a prescribed state workforce investment board model in order to effect these changes; and

WHEREAS, the federally prescribed state workforce investment board model dictates the number of and types of members of the state workforce investment board; and

WHEREAS, it is necessary to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

I. DEFINITIONS

As used herein:

A. "Board" means the Michigan Workforce Investment Board established by this Executive Order.

B. "Department of Career Development" means the principal department of state government created by Executive Order 1999-1, being Section 408.40 of the Michigan Compiled Laws, or any act of the legislature enacted subsequent to the issuance of this order.

C. "Department of Community Health" means the principal department of state government created by Executive Order 1996-1, being Section 330.3101 of the Michigan Compiled Laws.

D. "Department of Consumer and Industry Services" means the principal department of state government created by Executive Order 1996-2, being Section 445.2001 of the Michigan Compiled Laws.

E. "Family Independence Agency" means the principal department of state government created by Act No. 280 of the Public Acts of 1939, being Section 400.1 of the Michigan Compiled Laws.

F. "Governor's Workforce Commission" means the entity established by Executive Order 1994-26, being Section 408.48 of the Michigan Compiled Laws.

G. "Local units of government" means counties, townships, cities, villages or federally-recognized Indian tribes.

H. "Member" means a member of the Board appointed by the Governor, the Speaker of the House, or the Senate Majority Leader, as required by federal statute and regulation. "Member" also means the Governor

and other state officials listed in Section II.C.4.h. of this order who also serve as board members as required by federal statute and regulation.

I. “One-Stop Partner” means the lead state agency with responsibility for the following programs and activities described in Section 121(b) of the federal Workforce Investment Act of 1998 (29 USC 2841(b)) and any federal regulations issued pursuant to the Act. Where no state agency has responsibility for such a program or service, a one-stop partner means an entity in the state with expertise relating to such a program. Those programs and activities include:

1. Programs authorized under Title I of the federal Workforce Investment Act of 1998, being 29 USC 2801 et seq., which provide the framework for state and local workforce investment systems and funding streams for services to youths, adults and dislocated workers.
2. Programs authorized under the Wagner-Peyser Act, 29 USC 49 et seq., which establish and maintain a national system of public employment offices, for which the Department of Career Development is the lead state agency.
3. Programs authorized under the Adult Education and Family Literacy Act, 20 USC 9201 et seq., which establish partnerships among the federal government, states and localities to provide adult education and literacy services, for which the Department of Career Development is the lead state agency.
4. Programs authorized under Title I of the Rehabilitation Act of 1973, 29 USC 720 et seq., which assist states in operating statewide comprehensive programs of vocational rehabilitation, for which the Department of Career Development is the lead state agency.
5. Programs authorized under section 403(a)(5) of the Social Security Act, 42 USC 603(a)(5), which establish block grants to states for temporary assistance for needy families, for which the Department of Career Development is the lead state agency.
6. Programs authorized under Title V of the Older Americans Act of 1965, 42 USC 3056 et seq., which promote useful part-time opportunities in community service activities for unemployed low-income persons age 55 or older in order to foster economic self-sufficiency, for which the Department of Community Health is the lead state agency.
7. Programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act, 20 USC 2301 et seq., which develop the academic, vocational and technical skills of secondary students and post-secondary students enrolled in vocational and technical education programs, for which the Department of Career Development is the lead state agency.
8. Programs authorized under chapter 2 of Title II of the Trade Act of 1974, 19 USC 2271 et seq., which assist and retrain workers unemployed as a result of foreign competition, for which the Department of Career Development is the lead state agency.

9. Activities authorized under Chapter 41 of Title 38 of the United States Code, 38 USC 4100 et seq., which provide job counseling, training and placement service for veterans, for which the Department of Career Development is the lead state agency.

10. Programs authorized under the Community Services Block Grant Act, 42 USC 9901 et seq., which provide assistance to states and local communities, community action agencies and other neighborhood-based organizations, to reduce poverty, revitalize low-income communities, and empower low-income families and individuals to become self-sufficient, for which the Family Independence Agency is the lead state agency.

11. Employment and training activities of the Department of Housing and Urban Development, which provide services and resources to families eligible for public housing to achieve economic independence and self-sufficiency.

12. Programs authorized under state unemployment compensations laws, for which the Department of Consumer and Industry Services is the lead state agency.

II. CREATION OF THE MICHIGAN WORKFORCE INVESTMENT BOARD

A. Consistent with the provisions of the federal Workforce Investment Act of 1998 and regulations issued pursuant to the Act, the Michigan Workforce Investment Board is hereby created within the Michigan Department of Career Development as a Type II entity as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

B. The Board shall have fifty-three (53) members.

C. The membership of the Board shall be as provided in Section 111(b) of the Workforce Investment Act (29 USC 2821(b)) and regulations issued pursuant to the Act as follows:

1. The Governor.

2. Two (2) members of the Michigan Senate appointed by the Senate Majority Leader.

3. Two (2) members of the Michigan House of Representatives appointed by the Speaker of the House of Representatives.

4. Appointees of the Governor as follows:

a. Twenty-seven (27) members from lists of nominees submitted by state business organizations and business trade associations, who shall be business owners, chief executive or operating officers, or other business executives with optimum policy-making or hiring authority within their respective business including members of local boards described in Section 2832 (b)(2)(A)(i) of Title 29 of the United States Code.

b. Two (2) chief elected officials of local units of government.

- c. Two (2) members representing state labor organizations from a list of six (6) individuals who have been nominated by state labor federations.
- d. Two (2) members who have experience with respect to youth activities.
- e. Two (2) members who have expertise in the delivery of workforce investment activities, who may include the chief executive officers of community colleges or community-based organizations.
- f. One (1) member to represent K-12 school districts or public school academies as defined by the Revised School Code, Act No. 451 of the Public Acts of 1976, as amended, being Section 380.1 et seq. of the Michigan Compiled Laws.
- g. One (1) member to represent intermediate school districts as defined by the Revised School Code, Act No. 451 of the Public Acts of 1976, as amended, being Section 380.1 et seq. of the Michigan Compiled Laws.
- h. Four (4) members representing the lead state agencies, or their successor agencies, with responsibility for one-stop programs, as follows:
 - i. the Director of the Department of Career Development,
 - ii. the Director of the Department of Community Health,
 - iii. the Director of the Department of Consumer and Industry Services, and
 - iv. the Director of the Family Independence Agency.
- i. Five (5) members appointed by the Governor to represent other one-stop partners as required by the federal Workforce Investment Act, including representatives of the Department of Housing and Urban Development, the Workforce Investment Act Job Corps program, the Workforce Investment Act Native American Programs, the Workforce Investment Act Migrant and Seasonal Farmworker Programs, and Workforce Investment Act Youth Opportunity Grant Program.
- j. Two (2) members of the general public appointed by the Governor.

D. An individual appointed to serve as a Board member shall serve only while serving in the office of the respective organization, agency or entity in subparagraphs C.2. through C.4. that qualifies him or her for membership on the Board.

E. All members of the Board shall be individuals with optimum policymaking authority within the organizations, agencies or entities that they represent as required by federal statute and regulation.

F. The Board shall represent geographically diverse regions of Michigan to the extent required by federal statute and regulation.

G. Except as otherwise provided in this subsection, members of the Board shall hold office for a term of three (3) years.

1. Members appointed from Michigan House of Representatives and the Michigan State Senate shall serve a term during the term of the legislature in which they were appointed.
2. Of the members initially appointed to represent Michigan business entities, nine (9) members shall be appointed for a term of three (3) years, nine (9) members shall be appointed for a term of two (2) years, and nine (9) members shall be appointed for a term of one (1) year.
3. The members initially appointed as chief elected officials of local units of government shall be appointed for a term of two (2) years.
4. The members initially appointed to represent youth activities shall be appointed for a term of two (2) years.
5. The members initially appointed to represent workforce investment activities shall be appointed for a term of one (1) year.
6. The member initially appointed to represent K-12 school districts shall be appointed for a term of one (1) year.
7. The member initially appointed to represent intermediate school districts shall be appointed for a term of one (1) year.
8. The members initially appointed to represent other one-stop partners shall be appointed for a term of one (1) year.

H. A vacancy on the commission caused by the expiration of a term or other cause of termination of membership on the commission shall be filled in the same manner as the original appointment.

I. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member who he or she is to succeed in the same manner as the original appointment. A member may be reappointed for additional terms.

III. CHARGE TO THE MICHIGAN WORKFORCE INVESTMENT BOARD

A. The Board shall be advisory in nature and shall assist the Governor with the following functions as described in Section 111(d) of the federal Workforce Investment Act of 1998 (29 USC 2821(d)) and any regulations issued pursuant to the Act:

1. Development of the state Workforce Investment Act plan.
2. Development and continuous improvement of a statewide workforce investment system involving:

- a. Formation of linkages to assure coordination of effort and to prevent duplicative activity among programs and services available through the one-stop delivery system; and
 - b. Review of local Workforce Investment Act plans.
3. Provide comments on the state performance measures taken pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act, 20 USC 2323(b.)
 4. Designation of local workforce investment areas.
 5. Development of allocation formulas for the distribution of funds to local workforce investment areas for adult employment and training activities and youth activities.
 6. Development and continuous improvement of comprehensive state performance measures to assess the effectiveness of state workforce investment activities, including state adjusted levels of performance.
 7. Preparation of the state's Workforce Investment Act annual report.
 8. Development of the statewide employment statistics system.
 9. Development of a Workforce Investment Act incentive grant application and application process.

B. The Board shall also advise the Director of the Department of Career Development on the operation of the following programs:

1. The Work First Program, authorized by Section 57f of the Social Welfare Act, Act No. 280 of the Public Acts of 1939, as amended, being Section 400.57f of the Michigan Compiled Laws.
2. The Food Stamp Employment and Training Program, authorized under the federal Food Stamp Act of 1977, as amended by the Balanced Budget Act of 1997, 7 USC 2015 (d)(4).
3. The Career Preparation System, authorized under Sections 67 and 68 of the School Aid Act, Act No. 94 of the Public Acts of 1979, as amended, being Sections 388.1667 and 388.1668 of the Michigan Compiled Laws.
4. The North American Free Trade Agreement Transitional Adjustment Assistance Program, authorized under chapter 2 of Title II of the Trade Act of 1974, 19 USC 2271 et seq.
5. The Adult Education Programs, authorized under Sections 107 and 108 of the School Aid Act, Act No. 94 of the Public Acts of 1979, as amended, being Sections 388.1707 and 388.1708 of the Michigan Compiled Laws.

IV. OPERATIONS OF THE MICHIGAN WORKFORCE INVESTMENT BOARD

A. A majority of the members of the Board shall be representatives of Michigan business entities as required by federal statute and regulation.

B. As required by federal statute and regulation, the Governor shall designate as chairperson of the Board a member representing state business entities who shall serve at the pleasure of the Governor.

C. The Board may promulgate bylaws, not inconsistent with law and with this Order, governing its organization, operation and procedure.

D. A majority of the serving members consisting of a majority of members representing state business entities constitutes a quorum for the transaction of business at a meeting. Members participating in a meeting by the use of telephonic or video equipment shall be deemed present at the meeting. The Board shall act by a majority vote of its members. Voting shall be conducted in person or by use of telephonic or video equipment.

E. The Board shall meet at the call of the chairperson and as may be provided in the bylaws of the Board. Meetings of the Board may be held at any location within the state of Michigan. Gubernatorial appointees unable to comply with attendance requirements specified in the Board's bylaws, upon request of the chair, shall resign from the board.

F. The Board may, as appropriate, make inquiries, studies, and investigations, hold hearings, and receive comments from the public.

G. The Board may establish one or more subcommittees consisting of Board members to investigate and analyze specific issues, consistent with the charge to the Board contained in Section III of this order. The chair of the Board shall designate the members of each subcommittee established by the Board. Subcommittees shall recommend proposed actions, plans, comments, formulas, measures, reports or policies to the Board, consistent with the Board's charge. The Board may adopt, reject or modify recommendations proposed by subcommittees.

H. Members of the Board shall serve without compensation. Members of the Board may receive reimbursement for necessary travel and expenses according to the relevant procedures of the Civil Service Commission and the Department of Management and Budget.

I. The Board may hire or retain such contractors, sub-contractors, advisors, consultants and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Board and the performance of its duties as the Director of the Department of Career Development may deem advisable and necessary, in accordance with the relevant statutes, rules and procedures of the Civil Service Commission and the Department of Management and Budget.

J. Subject to appropriations and other applicable law, the Board may apply for, receive and expend monies from any source, public or private, including but not limited to, gifts, grants, donations of monies and government appropriations. The Board may also accept donations of labor, services or other things of value from any public or private agency or person.

K. Members of the Board shall refer all legal, legislative and media contacts to the Department of Career Development.

L. The Board shall be staffed by personnel within the Department of Career Development, as designated by the Director.

M. The Auditor General, or a certified public accountant appointed by the Auditor General, may annually conduct and remit to the Governor and the Legislature an audit of the Board and, in the conduct of the audit, shall have access to records of the Board at any time.

V. MISCELLANEOUS

A. All departments, boards, commissioners, or officers of the state or of any political subdivision thereof shall give to the Board, or to any member or representative thereof, any necessary assistance required by the Board, or any member or representative thereof, in the performance of the duties of the Board so far as is compatible with its, his or her duties; free access shall also be given to any books, records or documents in its, his or her custody, relating to matters within the scope of inquiry, study or investigation of the Board.

B. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

D. The Governor's Workforce Commission, established by Executive Order 1994-26, is hereby abolished.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days after filing.

Given under my hand and the Great Seal of the State of Michigan this _____ day of March, in the Year of our Lord, Two Thousand Two.

GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

EXECUTIVE ORDERS

EXECUTIVE ORDER

No. 2002 - 6

MICHIGAN STATE SAFETY COMMISSION

GOVERNOR'S TRAFFIC SAFETY ADVISORY COMMISSION

DEPARTMENT OF STATE POLICE

EXECUTIVE REORGANIZATION

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, certain functions, duties and responsibilities currently assigned to the Michigan State Safety Commission can be more effectively carried out by a new Governor's Traffic Safety Advisory Commission; and

WHEREAS, it is necessary in the interests of efficient administration and the effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

I. DEFINITIONS

As used herein:

A. The "Department of State Police" means the principal department created by Section 2 of Act No. 59 of the Public Acts of 1935, as amended, being Section 28.2 of the Michigan Compiled Laws; and by Section 150 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.250 of the Michigan Compiled Laws.

B. The "Michigan State Safety Commission" means the entity created by Section 1 of Act No. 188 of the Public Acts of 1941, as amended, being Section 256.561 et seq. of the Michigan Compiled Laws; that was

subsequently transferred to the Department of State Police pursuant to a Type II transfer by Section 155 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.255 of the Michigan Compiled Laws.

II. CREATION OF THE GOVERNOR'S TRAFFIC SAFETY ADVISORY COMMISSION

A. The Governor's Traffic Safety Advisory Commission is hereby created as a Type II entity within the Department of State Police, Office of Highway Safety Planning.

B. All the authority, powers, duties, functions and responsibilities of the Michigan State Safety Commission, including, but not limited to, the statutory authority, powers, duties, functions and responsibilities set forth in Act No. 188 of the Public Acts of 1941, as amended, being Section 256.561 et seq. of the Michigan Compiled Laws, are hereby transferred to the Governor's Traffic Safety Advisory Commission by a Type III transfer, as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws. The Michigan State Safety Commission is hereby abolished.

C. The Governor's Traffic Safety Advisory Commission shall consist of eleven (11) members as follows:

1. The Governor, or the designee of the Governor;
2. The Director of the Department of Community Health, or the designee of the Director of the Department of Community Health;
3. The Director of the Department of Education, or the designee of the Director of the Department of Education;
4. The Secretary of State, or the designee of the Secretary of State;
5. The Director of the Department of State Police, or the designee of the Director of the Department of State Police;
6. The Director of the Department of Transportation, or the designee of the Director of the Department of Transportation;
7. The Director of the Office of Services to the Aging, or the designee of the Director of the Office of Services to the Aging;
8. The Executive Director of the Office of Highway Safety Planning; and
9. Three (3) representatives of local units of government, appointed by the Governor, with the advice and consent of the Senate, as follows:
 - a. An individual selected under this provision shall serve as a commission member only while serving as an elected official or employee of a local unit of government.

- b. Except as otherwise provided, members of the Commission appointed under this provision shall hold office for a term of three (3) years. Of the members initially appointed, one (1) member shall be appointed for a term of three (3) years, one (1) member shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of one (1) year.
- c. A vacancy in a position on the commission created by this provision and caused by the expiration of a term or termination of the member's position as an elected official or employee of a local unit of government shall be filled in the same manner as the original appointment.
- d. A member appointed under this provision to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member who he or she is to succeed in the same manner as the original appointment. A member may be reappointed for additional terms.

10. The Governor shall designate one (1) member of the Commission to serve as chairperson. This member shall serve as Chair at the pleasure of the Governor.

D. The Commission shall identify traffic safety challenges, and develop, promote and implement strategies to address those challenges. Specifically, the Commission shall:

- 1. Develop comprehensive solutions to traffic safety challenges through partnerships with all levels of government and the private sector;
- 2. Maximize and coordinate the use of existing financial resources, including federal highway safety planning funds administered by the Office of Highway Safety Planning;
- 3. Manage resources devoted to traffic safety research, ensure that research programs are effective, and identify additional needs for traffic safety research;
- 4. Develop and implement a communications plan that increases public awareness regarding traffic safety issues and the Commission's activities addressing traffic safety issues;
- 5. Promote traffic safety education through programs developed in cooperation with the Michigan Department of Education; and
- 6. Encourage the use of collaborative activities in addressing traffic safety issues by identifying and recognizing best practices used by traffic safety organizations in the state.

E. The Commission shall meet at least once annually and more frequently as the Chair of the Commission deems necessary.

F. The Commission may adopt rules of procedure, not inconsistent with Michigan law and with this Executive Order, governing its organization and operations. A majority of the serving members constitutes a quorum for the transaction of business at a meeting, notwithstanding the existence of one (1) or more vacancies. Voting upon actions taken by the Commission shall be conducted by a majority vote.

G. Members of the Commission shall not receive compensation, but may receive reimbursement for necessary travel and expenses for the performance of Commission functions, based on existing state rates.

III. MISCELLANEOUS

A. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of all transfers of authority made under this Order.

B. The Director of the Department of State Police shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The Director of the Department of State Police shall immediately initiate coordination with the Michigan State Safety Commission to facilitate the transfers and develop memoranda of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved related to the authority to be transferred.

D. All records, personnel, property, grants and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan State Safety Commission for the activities, powers, duties, functions and responsibilities transferred to the Governor's Traffic Safety Advisory Commission by this Order are hereby transferred to the Governor's Traffic Safety Advisory Commission.

E. The Director of the Department of State Police, may by written instrument delegate a duty or power conferred by this Order, and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director of the Department of State Police.

F. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year.

G. All rules, orders, contracts, grants and agreements relating to the functions transferred to the Governor's Traffic Safety Advisory Commission by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended or rescinded.

H. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.

I. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days from the filing of this Order.

Given under my hand and the Great Seal of the State of Michigan this _____ day of March, in the Year of our Lord, Two Thousand Two.

GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

**OPINIONS OF THE
ATTORNEY GENERAL**

MCL 14.32 states in part:

“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(j) Attorney general opinions. ”

OPINIONS OF THE ATTORNEY GENERAL

COLLEGES AND UNIVERSITIES:

CONSTITUTIONAL LAW:

SCHOOLS AND SCHOOL DISTRICTS:

State university setting criteria for awarding academic credits

State university control over academic matters under Const 1963, art 8, §§ 5 & 6

A state university may establish criteria for determining when academic credits will be granted by that institution for postsecondary courses taken by high school students under the Postsecondary Enrollment Options Act.

Opinion No. 7103

March 27, 2002

Honorable Doug Spade
State Representative
The Capitol
Lansing, MI 48913

You have asked if a state university may establish criteria for determining when academic credits will be granted by that institution for postsecondary courses taken by high school students under the Postsecondary Enrollment Options Act.

The Postsecondary Enrollment Options Act (Act), 1996 PA 160, MCL 388.511 *et seq*, was enacted to provide a wider variety of options to high school pupils by encouraging and enabling qualified students to enroll in courses or programs in eligible postsecondary institutions. Section 2. "Eligible postsecondary institution" means a state university, community college, or independent nonprofit degree-granting college or university that is located in Michigan and that chooses to comply with this act. Section 3(e). A student may take courses at postsecondary institutions if the student is enrolled in at least one high school class in at least grade 11

and has successfully completed the requirements for a state endorsement in all subject areas of the Michigan Education Assessment Program (MEAP). Section 3(f). A student who has not successfully completed the requirements for a state endorsement in all subject areas in the MEAP is eligible to take postsecondary courses only in: (1) a subject area for which the student has completed the MEAP requirements; (2) computer science or foreign language courses not offered in the student's school district; or (3) fine arts courses as permitted by the school district. *Id.* Upon enrollment in a postsecondary course, the student shall designate whether the course is being taken for high school or postsecondary credit, or both. Section 7(1). A student's local school district pays the tuition and certain other fees for the courses taken at the postsecondary institution. Section 4.

Information supplied with your request indicates that some state universities have adopted policies that restrict their award of academic credit for certain postsecondary courses taken by students under the Act. One state university reportedly declines to award credit unless the high school student has first taken a complete “academic core” at the student's high school. This required “academic core” includes a number of high school classes in English, mathematics, natural science, social science, and language. Another state university reportedly will grant credit only if the high school student elects to take the postsecondary course for college credit, the course is taught by a college instructor, and there are postsecondary students simultaneously enrolled in the course.

Const 1963, art 8, § 5, confers constitutional autonomy upon the governing boards of the University of Michigan, Michigan State University, and Wayne State University by providing that “[e]ach board shall have the general supervision of its institution and the control and direction of all expenditures from the institution’s funds.” Const 1963, art 8, § 6, confers constitutional autonomy upon the governing boards of other state institutions of higher education that have the authority to grant baccalaureate degrees by providing that “[t]he board shall have

general supervision of the institution and the control and direction of all expenditures from the institution's funds."

The quoted language confers the same constitutional autonomy on the boards of control of state institutions of higher education whether they fall under § 5 or § 6. *Eastern Michigan Univ Bd of Control v Labor Mediation Bd*, 384 Mich 561, 563; 184 NW2d 921 (1971).

Legislative attempts to restrict the constitutional autonomy of state universities have been the subject of extensive review by Michigan's appellate courts. Michigan's courts have consistently interpreted Michigan's Constitution as conferring upon the governing boards of state universities complete control over academic matters. As observed by the Michigan Supreme Court in *Regents of the Univ of Michigan v Michigan*, 395 Mich 52, 74; 235 NW2d 1 (1975), "Michigan is one of the few states to give independent constitutional status to its universities." Thus, "[o]ur Court will not, as it has not in the past, shirk its duty to protect the autonomy of the Regents in the educational sphere." *Regents of the Univ of Michigan v Employment Relations Comm*, 389 Mich 96, 109-110; 204 NW2d 218 (1972). Based on these controlling precedents, the Attorney General has concluded that "[t]he constitutional autonomy of these institutions is plenary as to its educational programs" OAG, 1979-1980, No 5637, p 578, 579 (January 31, 1980).

The determination of standards for admission to a state university, or to a course offered by a state university, is an academic matter that is within the discretion of the university. See OAG, 1975-1976, No 3662, p 708 (December 15, 1976); OAG, 1971-1972, No 4707, p 39 (May 5, 1971). It follows that establishing criteria for determining when and under what circumstances a state university will grant academic credit for courses, including postsecondary courses taken by high school students, is likewise an academic matter exclusively within the discretion of the university.

It is my opinion, therefore, that a state university may establish criteria for determining when academic credits will be granted by that institution for postsecondary courses taken by high school students under the Postsecondary Enrollment Options Act.

JENNIFER M. GRANHOLM
Attorney General

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2002 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2002 SESSION)**

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1		472	Yes	1/21	1/23	01/23/02	STATE; Funds; children's trust fund; revise investment options. (Sen. S. Johnson)
2	5027		Yes	1/21	1/23	01/23/02	HIGHWAYS; Name; renaming certain portion of M-69; designate as "Oscar G. Johnson Memorial Highway". (Rep. D. Bovin)
3		430	No	2/6	2/7	**	ENVIRONMENTAL PROTECTION; Other; dark sky preserve; repeal sunset. (Sen. B. Hammerstrom)
4		471	Yes	2/6	2/7	02/07/02	FINANCIAL INSTITUTIONS; Other; licensing of residential mortgage originator; clarify. (Sen. B. Leland)
5		615	Yes	2/6	2/7	02/07/02	HIGHWAYS; Name; renaming a certain portion of US-127; establish as the "Gary Priess Memorial Highway." (Sen. V. Garcia)
6	5436		Yes	2/14	2/14	02/14/02	PROPERTY; Conveyances; transfer of certain state owned properties in Tuscola county and Wayne county; provide for. (Rep. T. Meyer)
7		682	Yes	2/14	2/14	02/14/02	CHILDREN; Support; citation in divorce law; enact change necessitated by 2001 PA 107. (Sen. B. Hammerstrom)
8		683	Yes	2/14	2/14	02/14/02	CHILDREN; Support; citation in the family support act; enact changes necessitated by 2001 PA 111. (Sen. B. Hammerstrom)
9		684	Yes	2/14	2/14	02/14/02	CHILDREN; Support; citation in child custody act; enact change necessitated by 2001 PA 108. (Sen. B. Hammerstrom)
10		434	Yes	2/14	2/14	02/14/02	CHILDREN; Protection; reporting suspected child abuse or neglect; clarify provisions and add categories of mandated reporters. (Sen. B. Hammerstrom)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
11	4195		Yes	2/18	2/19	02/19/02	HEALTH FACILITIES; Nursing homes; individual responsible for receiving complaints and conducting complaint investigations; require nursing home to have such individual available 24 hours per day, 7 days per week. (Rep. B. Patterson)
12	4980		Yes	2/18	2/19	02/19/02	HIGHWAYS; Name; renaming certain portion of I-69; designate as "Purple Heart Highway." (Rep. P. DeWeese)
13	5005		Yes	2/18	2/19	2/19/02	TRANSPORTATION; Other; motor fuels quality; revise standards and penalties. (Rep. L. Julian)
14	5009		Yes	2/18	2/19	2/19/02	CHILDREN; Abuse or neglect; failure to report; increase penalties. (Rep. M. Middaugh)
15	4487		Yes	2/21	2/21	2/21/02	COMMERCIAL CODE; Sales; price of goods for which a writing is required for an enforceable contract; increase minimum to \$1,000.00. (Rep. J. Koetje)
16	4009		Yes	2/27	2/28	2/28/02	AGRICULTURE; Other; low-interest loans for certain agricultural disasters; provide for. (Rep. R. Jelinek)
17	4812		Yes	2/28	3/1	3/1/02	LIENS; Generally; ownership and lien rights of dies, molds, and forms ; revise. (Rep. A. Richner)
18	5382		Yes	2/28	3/1	3/1/2002 #	COMMERCIAL CODE; Secured transactions; reference to molder's lien act in secured transactions; amend uniform commercial code to provide. (Rep. M. Mortimer)
19	5023		Yes	3/4	3/4	03/04/02	COUNTIES; Other; recording requirements of register of deeds; revise. (Rep. A. Sanborn)
20	5024		Yes	3/4	3/4	03/04/02	PROPERTY; Land contracts; contracts for sale of land; eliminate witness requirement. (Rep. A. Sanborn)
21	5025		Yes	3/4	3/4	03/04/02	LAND USE; Land division; signatures on proprietor's certificate on the plat; eliminate witness requirement. (Rep. A. Sanborn)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
22	5186		Yes	3/4	3/4	03/04/02	COUNTIES ; Employees and officers; requirement for medical examiner to live in county of appointment; eliminate, and repeal acts and parts of acts. (Rep. G. Van Woerkom)
23	5022		Yes	3/4	3/4	03/04/02	COUNTIES ; Employees and officers; procedure for recording deeds and mortgages; eliminate witness requirement. (Rep. A. Sanborn)
24		505	No	3/5	3/6	** #	CRIMINAL PROCEDURE ; Sentencing guidelines; sentencing guideline provisions for possession of firearms on commercial airport property; provide for. (Sen. P. Hoffman)
25		718	Yes	3/5	3/6	03/06/02	WORKER'S COMPENSATION ; Insurers; certain assessments; revise. (Sen. B. Bullard Jr.)
26		496	Yes	3/5	3/6	03/06/02	INSURANCE ; Insurers; service of process in certain cases; provide for. (Sen. B. Bullard Jr.)
27	4028		Yes	3/5	3/6	03/06/02	LOCAL GOVERNMENT ; Other; spot blight designation and acquisition; provide for. (Rep. A. Richner)
28	5389		Yes	3/7	3/7	04/01/02	CRIMINAL PROCEDURE ; Sentencing guidelines; technical amendments; provide for. (Rep. W. McConico)
29	5390		Yes	3/7	3/7	04/01/02	CRIMINAL PROCEDURE ; Sentencing guidelines; technical amendments; provide for. (Rep. W. O'Neil)
30	5391		Yes	3/7	3/7	04/01/02	CRIMINAL PROCEDURE ; Sentencing guidelines; technical amendments; provide for. (Rep. J. Faunce)
31	5392		Yes	3/7	3/7	04/01/02	CRIMINAL PROCEDURE ; Sentencing guidelines; technical amendments; provide for. (Rep. L. Julian)

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*** - See Act for applicable effective date.

+ - Line item veto

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
32		493	Yes	3/7	3/7	03/07/02	INSURANCE ; Other; requirement for commissioner to obtain approval of a circuit court judge before issuing a subpoena in certain cases; eliminate. (Sen. B. Bullard Jr.)
33	5483		Yes	3/7	3/7	3/7/2002 #	BUSINESSES ; Nonprofit corporations; career development and distance learning; provide for in nonprofit corporation act. (Rep. J. Gilbert II)
34	5393		Yes	3/7	3/7	***	CRIMINAL PROCEDURE ; Sentencing guidelines; technical amendments; provide for. (Rep. J. Faunce)
35		541	Yes	3/7	3/7	05/15/02	AERONAUTICS ; Other; general amendments; provide for. (Sen. W. North)
36	5482		Yes	3/7	3/7	03/07/02	BUSINESSES ; Nonprofit corporations; establishment and operation of registered distance learning corporations; authorize. (Rep. J. Allen)
37		604	Yes	3/7	3/7	03/07/02	INSURANCE ; Property and casualty; mandatory exams of rating organizations; eliminate. (Sen. V. Garcia)
38		605	Yes	3/7	3/7	03/07/02	INSURANCE ; No-fault; reference to public service commission certification; revise to the department of transportation. (Sen. M. Goschka)
39	5139		Yes	3/11	3/12	03/12/02	EDUCATION ; School districts; access to high school campus and certain student directory information for official armed forces recruiting representatives; require. (Rep. W. Kuipers)
40	4690		Yes	3/11	3/12	03/12/02	STATE ; Interstate compacts and agreements; Michigan participation in the interstate compact for adult offender supervision; establish. (Rep. C. LaSata)
41	5337		Yes	3/11	3/12	03/12/02	TRANSPORTATION ; Carriers; weight restrictions on certain highways or roads; revise. (Rep. J. Gilbert II)

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*** - See Act for applicable effective date.

+ - Line item veto

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
42	4987		Yes	3/12	3/12	03/12/02	OCCUPATIONS; Real estate; procedure for a deposit held by an escrowee; clarify. (Rep. M. Bishop)
43		180	Yes	3/13	3/14	03/14/02	CRIMES; Prostitution; qualifying underlying offenses to establish second, third, and subsequent offense violations; amend. (Sen. B. Schuette)
44	4325		Yes	3/13	3/14	6/1/2002 #	CRIMES; Prostitution; criteria for determining prior prostitution offenses; amend to include consideration of local ordinance violations. (Rep. C. Bisbee)
45	5449		Yes	3/13	3/14	6/1/2002 #	CRIMES; Prostitution; age limit restricting prosecution for certain prostitution violations; revise, and eliminate requirement of knowledge of age of child for certain other sex-related crimes. (Rep. J. Gilbert II)
46		1029	Yes	3/13	3/14	6/1/2002 #	CRIMES; Prostitution; age limit for charging certain prostitution violations; revise. (Sen. T. McCotter)
47	5033		Yes	3/13	3/14	6/1/2002 #	CRIMINAL PROCEDURE; Sentencing guidelines; sentencing guidelines for crime of soliciting child to commit an immoral act; enact. (Rep. M. Kowall)
48		880	Yes	3/14	3/14	11/1/2002 #	PUBLIC UTILITIES; Other; fee structures for use of public rights-of-way; provide for. (Sen. J. Schwarz)
49		881	Yes	3/14	3/14	03/14/02	COMMUNICATIONS; Telecommunications; Michigan community communications development authority; create. (Sen. L. Stille)
50		999	Yes	3/14	3/14	3/14/2002 #	PROPERTY TAX; Other; credit for the purchase and installation of certain telecommunications equipment; provide for. (Sen. V. Garcia)

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*** - See Act for applicable effective date.

+ - Line item veto

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
51	4672		Yes	3/12	3/15	03/15/02	EDUCATION ; Other; model local policy concerning the administration of medications to students at school; provide for. (Rep. J. Hansen)
52		796	Yes	3/12	3/15	*** #	NATURAL RESOURCES ; Trust funds; natural resources trust fund; provide for expanded investment authority. (Sen. G. McManus Jr.)
53		797	Yes	3/12	3/15	*** #	VETERANS ; Trust fund; investment authority; expand. (Sen. V. Garcia)
54		798	Yes	3/12	3/15	*** #	NATURAL RESOURCES ; Trust funds; state parks endowment fund; provide for expanded investment authority. (Sen. C. Dingell)
55		799	Yes	3/12	3/15	*** #	NATURAL RESOURCES ; Trust funds; nongame fish and wildlife trust fund; expand investment authority. (Sen. A. Smith)
56		800	Yes	3/12	3/15	*** #	NATURAL RESOURCES ; Trust funds; game and fish protection trust fund; expand investment authority. (Sen. L. Bennett)
57		801	Yes	3/12	3/15	*** #	NATURAL RESOURCES ; Trust funds; Michigan civilian conservation corps endowment fund; expand investment authority. (Sen. D. Koivisto)
58	5404		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. J. Allen)
59	5405		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of school districts to pay for loans from state; modify. (Rep. M. Bishop)
60	5406		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority for emergency loans for school districts; repeal. (Rep. L. DeVuyst)
61	5407		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. J. Gilbert II)

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*** - See Act for applicable effective date.

+ - Line item veto

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
62	5408		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. J. Howell)
63	5409		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. J. Koetje)
64	5410		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. M. Middaugh)
65	5414		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. S. Thomas III)
66	5412		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. G. Van Woerkom)
67	5413		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. S. Vear)
68	5416		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. L. Lemmons III)
69	5417		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. A. Lipsey)
70	5418		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the revised school code; modify. (Rep. J. Rivet)
71	5419		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of the school aid act; modify. (Rep. M. Waters)
72	5420		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of community colleges; modify. (Rep. P. Zelenko)
73	5423		Yes	3/14	3/15	03/15/02	LOCAL GOVERNMENT ; Bonds; bonding authority of community colleges; modify. (Rep. M. Pumford)

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** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
74		592	Yes	3/14	3/15	03/15/02	INSURANCE; Third party administrators; requirement that third party administrators have administrative service manager; eliminate. (Sen. B. Bullard Jr.)
75		692	Yes	3/14	3/15	03/15/02	LAND USE; Farmland and open space; agricultural conservation easement or purchase of development rights; provide that entry into automatically terminates development rights agreement without lien and entitles landowner to tax credit and revise circumstances for relinquishment of farmland from development rights agreement. (Sen. B. Hammerstrom)
76	5119		Yes	3/14	3/15	03/15/02	LIQUOR; Licenses; small distillery license fee; decrease. (Rep. S. Rocca)
77	5585		Yes	3/21	3/21	03/21/02	CIVIL PROCEDURE; Civil actions; interest on judgment on a written instrument evidencing indebtedness that bears an interest rate; revise to make application of recent change prospective and provide mechanism for fixing rate when instrument bears a variable interest rate. (Rep. A. Richner)
78	5205		Yes	3/25	3/25	03/25/02	TRANSPORTATION; Carriers; number of axles allowed on certain designated highways; clarify. (Rep. J. Gilbert II)
79	4859		Yes	3/25	3/25	03/25/02	CORRECTIONS; Employees; record of controlled substance offenses that were subject to dismissal and discharge; allow to be used by department of corrections or law enforcement agencies for specified purposes. (Rep. L. Julian)
80	5434		No	3/25	3/25	**	TRADE; Other; grain dealers act; provide general amendments. (Rep. T. Meyer)
81	4860		Yes	3/25	3/25	03/25/02	NATURAL RESOURCES; Hunting; requirement for lottery to issue wild turkey hunting license; eliminate. (Rep. M. Mortimer)

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*** - See Act for applicable effective date.

+ - Line item veto

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
82	5026		Yes	3/25	3/26	03/26/02	WEAPONS; Firearms; transportation requirements for certain firearms ; clarify. (Rep. S. Vear)
83		884	Yes	3/25	3/26	03/26/02	LEGISLATURE; Auditor general; reference to auditor general in vocational education acts; eliminate. (Sen. T. McCotter)
Veto	4022					03/15/02	TRAFFIC CONTROL; Speed restrictions; speed limits; allow input by townships in setting certain speed limits. (Rep. R. Jamnick)

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*** - See Act for applicable effective date.

+ - Line item veto

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MICHIGAN ADMINISTRATIVE CODE TABLE
(2002 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(i) Other official information considered necessary or appropriate by the office of regulatory reform.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

MICHIGAN ADMINISTRATIVE CODE TABLE
(2002 RULE FILINGS)

R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue
281.1224	*	3	285.1328	*	6	285.1701	*	6
285.351	N	4	285.1329	*	6	285.1702	*	6
285.352	N	4	285.1330	*	6	285.1703	*	6
285.353	N	4	285.1331	*	6	285.1704	*	6
285.354	N	4	285.1332	*	6	285.1705	*	6
285.355	N	4	285.1401	*	6	285.1801	*	6
285.356	N	4	285.1402	R	6	285.1901	*	6
285.1101	*	6	285.1403	*	6	285.1902	*	6
285.1102	*	6	285.1404	R	6	285.1903	*	6
285.1103	*	6	285.1405	*	6	285.1904	*	6
285.1104	*	6	285.1406	*	6	285.1905	*	6
285.1201	*	6	285.1407	R	6	285.1906	*	6
285.1202	*	6	285.1408	*	6	285.1907	*	6
285.1203	*	6	285.1501	*	6	325.60151	*	1
285.1301	*	6	285.1510a	A	6	325.66201	A	4
285.1302	*	6	285.1502	*	6	325.77101	*	1
285.1303	*	6	285.1503	*	6	336.1301	*	5
285.1304	*	6	285.1504	*	6	336.1303	*	5
285.1306	*	6	285.1505	*	6	336.1330	*	5
285.1307	*	6	285.1506	*	6	336.1331	*	5
285.1308	*	6	285.1507	*	6	336.1371	*	5
285.1309	*	6	285.1508	*	6	336.1372	*	5
285.1310	*	6	285.1509	*	6	336.1374	*	5
285.1311	*	6	285.1510	*	6	336.1401	*	5
285.1312	*	6	285.1511	*	6	336.1403	*	5
285.1313	*	6	285.1512	*	6	336.1601	*	5
285.1314	*	6	285.1513	*	6	336.1602	*	5
285.1315	*	6	285.1514	*	6	336.1604	*	5
285.1316	*	6	285.1515	*	6	336.1605	*	5
285.1317	*	6	285.1516	R	6	336.1606	*	5
285.1318	*	6	285.1517	*	6	336.1607	*	5
285.1319	*	6	285.1601	R	6	336.1608	*	5
285.1320	*	6	285.1602	*	6	336.1610	*	5
285.1321	*	6	285.1603	*	6	336.1615	*	5
285.1322	*	6	285.1604	*	6	336.1616	*	5
285.1323	*	6	285.1605	*	6	336.1617	*	5
285.1324	*	6	285.1606	*	6	336.1618	*	5
285.1325	*	6	285.1607	*	6	336.1619	*	5
285.1326	*	6	285.1608	R	6	336.1622	*	5
285.1327	*	6	285.1609	R	6	336.1623	*	5

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue
336.1627	*	5	418.101002	*	1	423.141	A	1
336.1628	*	5	418.10107	*	1	423.142	A	1
336.1629	*	5	418.10115	*	1	423.143	A	1
336.1630	*	5	418.10116	*	1	423.144	A	1
336.1631	*	5	418.10117	*	1	423.145	A	1
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